

# PETER I. BREEN

Interviewee: Peter I. Breen

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## Description

Peter I. Breen, born November 8, 1939, is a third-generation lawyer and judge, named after his grandfather, Peter Breen, and his father, Peter Breen. Born in Reno and raised in Goldfield and Tonopah, where his father practiced law and sat as a judge, Judge Breen had a rural Nevada childhood in the declining mining towns. He graduated from the University of Nevada, Reno, and from law school at Santa Clara University. Judge Breen's oral history is rich in stories of his budding legal career, his early mentor, Reno attorney Ernest Brown, and many other well-known Nevada attorneys.

Thirty-four years old when appointed to the bench in 1973 by Governor Mike O'Callaghan, Judge Breen is one of Nevada's longest serving jurists. He is expansive and reflective on his legal and judicial philosophy—a philosophy grounded in the ideals that all people are “entitled to be treated with respect and dignity.” Judge Breen was a major influence in establishing the first of Nevada's specialty courts and its first Probate Court. The restoration and preservation of the historic Washoe County Courthouse is an important part of Judge Breen's legacy. He believes in the traditional courtroom as a place where society can “believe in the rule of law and the sense of a permanence and reverence for the law.”

The oral history interviews with Peter I. Breen were part of the Nevada Legal Oral History Project, a joint effort of the Nevada Judicial Historical Society, the Ninth Judicial Circuit Historical Society, and the University of Nevada Oral History Program.



**PETER I. BREEN**

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An Oral History Conducted by Susan Imswiler  
Edited by Patricia A. Cooper-Smith

University of Nevada Oral History Program

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## PREFACE

Established in 1964, the University of Nevada Oral History Program (UNOHP) explores the remembered past through rigorous oral history interviewing, creating a record for present and future researchers. The program's collection of primary source oral histories is an important body of information about significant events, people, places, and activities in twentieth and twenty-first century Nevada and the West.

The UNOHP wishes to make the information in its oral histories accessible to a broad range of patrons. To achieve this goal, its transcripts must speak with an intelligible voice. However, no type font contains symbols for physical gestures and vocal modulations which are integral parts of verbal communication. When human speech is represented in print, stripped of these signals, the result can be a morass of seemingly tangled syntax and incomplete sentences—totally verbatim transcripts sometimes verge on incoherence. Therefore, this transcript has been lightly edited.

While taking great pains not to alter meaning in any way, the editor may have removed false starts, redundancies, and the “uhs,” “ahs,” and other noises with which speech is often liberally sprinkled; compressed some passages which, in unaltered form, misrepresent the chronicler's meaning; and relocated some material to place information in its intended context. Laughter is represented with [laughter] at the end of a sentence in which it occurs, and ellipses are used to indicate that a statement has been interrupted or is incomplete...or that there is a pause for dramatic effect.

As with all of our oral histories, while we can vouch for the authenticity of the interviews in the UNOHP collection, we advise readers to keep in mind that these are remembered pasts, and we do not claim that the recollections are entirely free of error. We can state, however, that the transcripts accurately reflect the oral history recordings on which they were based. Accordingly, each transcript should be approached with the

same prudence that the intelligent reader exercises when consulting government records, newspaper accounts, diaries, and other sources of historical information. All statements made here constitute the remembrance or opinions of the individuals who were interviewed, and not the opinions of the UNOHP.

For more information on the UNOHP or any of its publications, please contact the University of Nevada Oral History Program at Mail Stop 0324, University of Nevada, Reno, NV, 89557-0324 or by calling 775/784-6932.

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## INTRODUCTION

It is no accident that tradition, history, and continuity are important to the Hon. Peter I. Breen, Judge of the Second Judicial District, Washoe County, Nevada. As a native Nevadan and the third generation of his namesake and family to be a lawyer and a judge, the law beckoned.

Peter I. Breen was born November 8, 1939, in Reno, but spent his early years in Goldfield. His Goldfield memories run the gamut of using his father's office and the local judge's chambers and courtroom as a playground, and fantasizing the ruins of Goldfield as classical structures—the old Elks building magically becoming the ruins of Rome. Judge Breen fondly tells stories of his parents, sisters, friends, and other relatives through his high school years in Tonopah.

He recalls his father, Peter Breen, as a lawyer and judge who was “honest to a fault.” He speaks of his mother teaching him subtle lessons in fairness, as when she told young Peter not to forget that one of his father's best friends, a businessman from Los Angeles, was Jewish. Moral and ethical guideposts, his

parents stood behind him and protected him while allowing his intelligent and energetic character to develop.

Going off to the University of Nevada, Reno (UNR) at sixteen was a challenge; having a handful of Tonopah friends at UNR helped the transition. Reno *was* the big, green city with grass and trees, but it was not an unknown. Breen had spent a lot of childhood time in Reno with his maternal grandparents; his grandfather, Frank Ingram, was another lawyer.

En route to law school at Notre Dame, a romantic interest turned Breen toward local options; he moved to the Bay Area to attend law school at Santa Clara University. He describes going to law school in California during the early 1960s as “the perfect time” before the social upheavals that were on the horizon. Santa Clara Law School was also undergoing a significant restructuring in faculty and academic rigor, and the aspiring lawyer took advantage of both.

Judge Breen's oral history is chock-full of stories of his return to Reno and the

beginning of his legal career. Preeminent is his professional and personal relationship with Reno attorney Ernest Brown who, after his father, was an early mentor. Sadly, Ernest Brown died a short one-and-a-half years later. Judge Breen's stories of practicing law in Reno during the 1960s and early 1970s are varied but governed by the simple credo of being "a person of your word."

Breen was just 34 years old when he was appointed by Governor Mike O'Callaghan in 1973 to a new judicial seat in Washoe County. He quickly acknowledges the benefits of growing up around lawyers and judges, and the generous advice many older, established lawyers gave him in the early years on the bench.

While relating stories and cases both of human interest and complex and convoluted corporate interests, Judge Breen reflects extensively on his judicial philosophy—a philosophy born from ideals that all people are "entitled to be treated with respect and dignity."

Judge Breen's oral history reveals a legal and judicial career founded in honesty and integrity. He is also an innovator and a major influence in establishing the first of Nevada's specialty courts: the Washoe County Adult Drug Court; the Diversion Court for criminal offenders whose crimes are attributable to drug addiction or alcoholism; and the first Mental Health Court in Nevada. He is proud to have been a part of the first Probate Court in Washoe County, but quickly credits its existence to Ms. Pam Gullihur, an able non-attorney staff member.

Close to Judge Breen's heart and legacy is his part in the restoration of the historic Washoe County Courthouse. Without his dedication, energy, and organizational skills, the large undertaking would not

have been possible. He deeply believes that the traditional courtroom underscores the proposition that "as a society we believe in the rule of law and a sense of a permanence and reverence for the law."

For readers who are interested in examining the unaltered records, copies of the recorded interviews are available in the Special Collections department of the UNR Library.

Susan Imswiler conducted oral history interviews with Judge Peter I. Breen during August and September 2003 in his chambers at the Washoe County Courthouse, Reno, Nevada, as part of the Nevada Legal Oral History Project, a joint effort of the Ninth Judicial Circuit Historical Society (NJCHS), the Nevada Judicial Historical Society (NJHS), and the UNOHP. Begun in 2001, the project was intended to record the life stories of leading members of Nevada's legal profession and to educate the public about law and the courts by making those stories widely available through various media.

Members of the boards of NJHS and NJCHS compiled and vetted lists of potential narrators, ultimately selecting representatives from both the state and federal benches and bars. The UNOHP, under the direction of Tom King and his successor Mary Larson, recommended interviewers, most of whom were professional oral historians, and donated equipment and transcription services. Brad Williams, of NJCHS, coordinated the project from its inception. Susan Southwick, of NJHS, oversaw that group's participation. Patricia Cooper-Smith completed the copyediting and introductions. Alicia Barber, Director of the UNOHP since 2009, supervised the project's final publication and dissemination. The project was made possible by a generous challenge grant from the John Ben Snow

Memorial Trust, with matching funds provided by the U.S. District Court for Nevada Attorney Admissions Fund, the Washoe County Courthouse Preservation Fund, and the Nevada State Bar. Thanks go to Susan Southwick and the Board of Trustees of NJHS, and to Susan Imswiler, who interviewed Judge Breen.

Patricia A. Cooper-Smith  
Carson City, Nevada  
March 2013



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## GROWING UP IN GOLDFIELD AND TONOPAH

*Susan Imswiler: This is August 5, 2003. My name is Susan Imswiler. I'm the interviewer for Judge Peter I. Breen. Let's begin with where and when you were born.*

Peter I. Breen: I was born November 8, 1939, here in Reno at Washoe Medical Center. My parents were living here. My father, Peter Breen, was a lawyer. He was not practicing law. I have forgotten where he was working. I had an older sister. My mother's father's name was Frank Ingram, he was a lawyer here in town, had been active in politics, but he had a friend who was a railroad engineer, because my grandfather was a railroad engineer in his earlier days. His friend was the county commissioner in Esmeralda County. The district attorney's position came up down there in Esmeralda County, and my dad was recommended. Commissioner Joe Fusch proposed his name, and we moved down there in March of 1940.

*Now, your paternal grandfather—Peter Breen a.k.a. Old Breen—was from Ireland via*

*Panama and San Francisco, and your paternal grandmother was Margaret Blackwell Breen?*

Yes, she was born Margaret Fitzgerald in Virginia City, but her father died, and her mother married Blackwell.

*She was evidently part of an early Nevada ranching family?*

Yes. They moved to Currant, Nevada, and my grandmother actually was raised and spent some time going to school on the Duckwater Indian Reservation there north of Currant.

*Is that where they ranched?*

That's where they ranched and lived. Her stepfather was killed by his partner on New Year's Day. It's in one of those Harold's Club stories. His partner split his head open with an axe. And then my great-grandmother, I believe, moved to Eureka.

*That's quite a story.*

Yes.

*Were they ranching cattle or sheep?*

Cattle. Yes, they were cattle ranchers.

*Was the ranch still in the family when you were a child?*

Oh, no. The ranch was lost right after the murder occurred in the middle to late 1800s. And then we weren't ranchers anymore, or *they* weren't ranchers. Breen, as you mentioned, came to America via first Boston, and Isthmus of Panama, and lived in San Francisco for awhile, and then came to Nevada, or into Eureka in the, oh, middle 1880s. He was a lawyer, as far as I know, then.

*I understand he worked as a paperhanger for a while and then passed the bar.*

Yes. Wallpapering was his trade. Then he passed the bar. Molly Knudtsen, who was a writer and a former regent of the university, was writing a book about an incident that occurred out there in Eureka, because it touched her family. She asked me what I knew about this incident, and I knew nothing. But she told me the story that my grandfather, when he became a lawyer, was the first lawyer in that area to demand a jury, which was drawn at random from the voters' list in the county. He got this jury drawn, and then he got an acquittal, and that moved him into the district attorney's position, which eventually moved him into district judge there.

*I had wondered about that. Do you think he was adamant that the jury contain a cross-section of the community?*

Yes, I think so. Yes, so Miss Knudtsen told me.

*Do you think defense attorneys today are looking for a true cross-section, or is that even desirable today?*

Well, human nature being what it is, I imagine every lawyer wants a jury that's partial to *their* case. And not getting that—not being sure they can get that—they'll take a fair jury. That's the way the system goes.

*By default.*

Yes. [laughter]

*Now, do you know if he had a mentor, or did he just decide on his own and study law?*

I really don't know. I think he lived down there in San Francisco. I just know he was a good singer in St. Peter and Paul Catholic Church down there in North Beach, rather than in the Irish section of town. He was motivated somewhat by the precious metal strikes in central Nevada to come here, and I would imagine he harbored a desire to be a lawyer. Probably all Irishmen did in those days.

*Actually, there seemed to have been two kinds of people who came to Nevada during the gold strikes: miners and lawyers.*

Yes, I'd say that's true. [laughter]

*Now, he started out then and became a D.A. for Eureka County, and then in 1889 finally sat as judge in the Third Judicial District Court, which includes Belmont?*

It included Belmont at that time. Belmont was the county seat for Nye County. And then it moved to Tonopah very soon after he became a judge.

*Do you know if he ever used the old Belmont courthouse that's still there today?*

Oh, yes! Yes. He did. I don't think for very long, though. But my grandmother used to tell me stories about how Old Breen had a big, old, buffalo robe, and he would take that, a shotgun, and, of course, in the winter a bottle of whiskey—maybe the summer, too—and he would take his buckboard down to Potts Ranch. That was the first night's stop, and then on into Belmont. I think that was the route for him to conduct court.

*OK, Potts Ranch in Monitor Valley?*

In Monitor Valley, right. Speaking of him, people have sent me little items, keepsakes, concerning him. He died long before I was born, and I believe he and my grandmother were separated, so there wasn't too much information. But I received these letters from him where he wrote to his clerks, and he was *very* strong-minded in his letters. At first, reading him, I thought, "You know, I do not know if I would like this man."

He would write, say, a letter to a clerk, "Set this case for trial," or, "Publish a notice of this hearing in the paper, and then write me and tell me that you have done it," so that he would have a record of it. But then, if you're going to travel eighty or ninety miles to court by yourself in a horse and buggy, you want as few mistakes as possible before you get there.

*This is true.*

I have his old Parker shotgun that he carried with him. I was going to give it to Eureka County—and hope to do it someday. I haven't gotten around to it.

*Nye County also has a pretty good historical society.*

Yes, that's true. But the Breens didn't see themselves associated with Tonopah in those days. It was Eureka.

*Definitely Eureka.*

The old homesite's still there. I have visited it many times. There's this place where they kept their horses, and there's a little cave into the back of the house there where they stored their food. I thought about trying to buy it, but never did. It's hard to talk here. Loved ones who have no connection in....

*Eureka sure is a pretty little town.*

It is! Yes, it really is.

*Did any stories filter down through the family about what it was like to dispense justice in mining towns? Obviously, he carried a shotgun.*

My grandfather was a man who ran his court with a *strong* hand. There was a story about Austin, and it just cannot be true. George Holden and Howard Brown, different, old lawyers. Howard Brown had a connection with my grandfather, but George Holden was a D.A. out there, and he just talked about the folklore that somebody was convicted of murder on a Thursday morning and good, old Breen ordered his hanging that afternoon from the balcony of the Austin

courthouse. Made a really nice story, but it just couldn't have happened that way. No.

*Now, you mentioned your maternal grandfather was Frank Ingram, also a lawyer. Where did he practice?*

He practiced here in Reno. There is one story about Breen. I think it's Thirty-Two Nevada something, called *In Re Breen*, and I think it probably shows as much about his personality and his character as anything. He denied a change of venue in a murder case that occurred in Tonopah. Pat McCarran was the defense attorney, and he moved for a change of venue to Elko County, and Breen denied the motion for the change of venue. The defendant, I think, it was a prostitute who was killed, and I forget the name of the defendant. Well, it'll come to me in a minute. Anyway, it was appealed, and McCarran won the change of venue. It's said to have been the big case that started his political career. Breen, after the supreme court's order came down, called the district attorney into the court, and he put on the record—he says, "I want these words on the record, that it was pitiful if the supreme court didn't know what it was doing and inexcusable if it did."

Then, of course, the supreme court called him in for contempt of court. It was a very important case to my dad. He told me about it many times. The supreme court disciplined him by not letting him practice law for six months. He couldn't practice anyway. So they saw that as a victory—the Breens did—a victory over the supreme court. McCarran went on and got an acquittal in that case and rose to great heights.

*Now, you mentioned, he couldn't practice anyway during that same time?*

Well, gee, if you're a district judge, you couldn't practice law anyway. A friend of mine told me about that case when I was in college, and I dismissed it. But I was in law school, and we were reading through a case book on judicial—gosh, I don't know whether it was judicial discretion, or whether it had something to do with ethics. I opened this case book to the next case, and here it is, *In Re Breen*. As you could see, I learned a lot of things about my grandfather indirectly. That was, I suppose, typical of him. He was known to be a very good singer, traveled to San Francisco twice a year to visit his family down there. I really don't know too much more about him.

*Did you know your maternal grandfather any better?*

Grandpa Frank, I did. Yes. My mother and dad and my sisters and I came up to Reno to visit him at least twice a year—maybe three times a year—and he would come down to visit us. He was an impressive-looking guy. He had bushy black eyebrows. He smoked a pipe, and in the summer he wore a Panama hat and seersucker suits, and he would practice law in his home on 325 Ridge Street, the corner of Ridge and Arlington. At the early times it was known as Belmont Road, and he had his office on the second floor of a *big* three-story house. We'd visit him, and I could hang around his office, and he wouldn't get upset. He was known to have a quick temper. You don't interrupt him during his dinner hour, I know that. At that time in his life—he was in his early sixties when I remember him—he practiced a lot of uncontested divorce cases. He did bankruptcy work, and I really don't know what else. I know he became the referee in bankruptcy for Nevada, and he traveled between Reno and Vegas.

*Do you know where he was born? Was he born in Nevada?*

No, he was born in North Platte, Nebraska. In fact, I just received copies of some letters of his father writing to his mother, who was in North Platte getting ready to give birth to Grandpa Frank, and how lonesome old George Ingram was. And really well-written letters—it touched me. Anyway, then they moved to San Diego, and Ingram left home and came up here to Reno and became a railroad engineer. Eventually, he might have gotten fired—I think he wrecked a train.

But he studied law at the LaSalle Institute. It's still in existence. That's where he got his formal law training, and then he started practicing law here, and he became the labor commissioner. He got involved in the Democratic sweep into office nationally in 1932 and became prominent in Democratic politics. He made a lot of connections that somehow helped his practice out.

*Now, what do you know about your paternal grandmother?*

Grandma Breen. As a little boy I remember Grandma Breen visited us, say, three months a year. She traveled around amongst her five living daughters. She had six and one son. She would stay with us, and she was one person in Dad's family that Mother just *loved* and doted on. Grandma Breen was a *great* storyteller. She got her normal degree or a degree in nursing—a two-year degree in Salt Lake City—and she also wound up teaching around the various small schools around central Nevada: Luning, Mina, oh, Rawhide, all these little mining camps. She was such a good storyteller that my older cousins tell me this: the older kids would keep the younger

kids in line during school—it was a one-room schoolhouse—and threaten them with physical violence if they weren't good, because Grandma Breen would tell them that if they weren't good during the day she wouldn't tell them their afternoon story.

Oh, and she spun yarns about the killing of her father. She died when she was ninety-three, and we were fifteen, so she was in her eighties when I knew her. She probably mixed fantasy and fact together as she got older, but she told wonderful stories, and she read to us every night storybooks and then told the story. I remember her so fondly. She used an Irish brogue a lot of the time, and I thought she was from Ireland until Dad emphatically informed us that she was born in Virginia City.

Oh, I remember one time my grandmother was telling a story about Mount Grant in Hawthorne. Because two of my aunts lived there, she spent three months a year there. So we saw her very often six months of the year, and my dad said, "Mom, don't tell them that! Nobody will believe you." And we were very mad at Dad, because he kind of broke the spell. But when he turned away she thumbed her nose at him, and we all had a nice laugh at Dad's expense.

My maternal grandmother lived in Yerington, and her name was Kate. She was married to Ingram, and they were divorced. She lived on a ranch, and she was married to a guy named Ted Seiden. The Seidens had a good-sized ranch there in Yerington. Ted looked like a cowboy and talked like a cowboy and *moved* like a cowboy. He was a wonderful guy. She lived out there close to Wabuska, little twenty-acre ranch, and then they had other properties further north and west. But she had one leg missing. She had had her leg amputated. We would spend half

of our summers there with Grandma Kate in Yerington.

*Do you know what brought that on?*

She had what was called in those days “milk leg.” [painful thrombosis of the femoral vein in the leg following childbirth] Her leg became infected, I think—something drastic, because there was loss of blood. And that’s what they did, they cut it off. Today they probably wouldn’t do that.

No! No.

Not at all. I hope not. [laughter]

*Today they’d probably use anesthesia, too.*  
[laughter]

Yes. But she got around on crutches, *oh*, really well.

*Now, your father was also a judge, Peter Breen.*

Right. Yes.

*He also spent most of his career in Nevada mining towns. He was born in Eureka about 1901?*

He was born in Eureka, February twenty-something in 1901. Was raised there, graduated from high school. When I knew him, Dad was really heavy, like 270 pounds and five-foot eight, but he had really *broad* shoulders. What I remember so much about him is, he had these *big* forearms and beautiful hands. When he was a young boy there, he was really a gifted athlete. He played on the town baseball team when he was fourteen. But he was *slim*. And seeing

pictures of him, he didn’t look like the Peter Breen I knew. That stuck out in my mind, yes.

*His childhood seems to have sort of paralleled yours. You both grew up in former boomtowns that had seen better days. Eureka, I guess, peaked and went bust just about a generation before Tonopah. Did you ever talk about that, or did it just seem like that was the norm?*

We didn’t, not so much, no. That was the norm. He left Nevada to go to college at St. Mary’s in Oakland and went down to Loyola to go to law school. The stories he tells about being a young boy in Eureka were very similar to those of mine in Goldfield, except he was much more protective of me then and limited my roaming much more than, I think, he was limited as a young boy.

*Probably because he knew exactly the kind of trouble you could get into.* [laughter]

Probably, yes. As a district attorney, he had a significant event where a father killed his son in a hunting accident, so I was not allowed to go out camping or hunting or anything like that as a young person.

*Oh, no! Did he ever talk about the differences between his college world and law-school world and Nevada?*

You mean for him? Not much. He talked about going down to St. Mary’s and having to prove himself to the city boys. He got involved in a few fights, but he was also a gifted boxer. I didn’t hear this from him, particularly, or the relatives, but from people like Virgil Smith, who was an old mining promoter around here. Dad was well known—it was a small state then—well known around the mining circles. But he did talk about that. He

talked about trying to get started during the Depression in the practice of law. He went to Elko and Rawhide, Mina, all kinds of towns, and he never had a good start at getting a practice going, and this went all through his twenties. I know his father had retired from the judgeship. He had to *quit* law school and come up here after his first year, and he took the bar and passed it in like 1922. Then they went to Eureka and started practice together. Well, Old Breen ran for judge again and was defeated. Then, I think he went into forced retirement, and then Dad went around and tried to get his practice going in very difficult times. I guess he never really did. I have little cards of, "Peter Breen, Attorney-at-Law," from various places.

He left Nevada and went to California *because* the husband of one of his sisters, named Mark Cessna, who was raised in Sparks and became a highway engineer, had the job of being the chief engineer on that Big Sur highway. He was a very capable guy, Mark Cessna was. So Dad went down and worked on constructing that highway, and also constructing some highways into Los Angeles. He spent a few years there and then happened to come back here.

He had previously met Mother, but saw her on a train from Wabuska to Reno, as the story goes, and the rest is history.

*Now, where was your mother from? Where was she born?*

Mother was born in Sparks, out there on Wedekind Road. Grandpa Frank had a big house out there, and so she was born there, and then they moved to Carson City, where she went through high school. She was in the same class old Grant Bowen was—the judge here for thirty years, the longest sitting judge in Nevada history. She went through high

school there and became a court reporter and stayed around Carson and Reno till she and Dad got together when she was about twenty-seven or twenty-six. She worked for the legislature and different law offices, I guess, and worked for different courts.

*Now, you have two sisters, Gwendolyn and Frances?*

Yes.

*You have one older and one younger?*

Yes, Francie is the oldest. She's a year and eight months older than me—March the fourth of 1938—and Gwenie is about four years younger. She was born December 16, 1944.

*Is there anyone in your family who comes to mind as maybe the most influential person in your life?*

For me, oh, my father, of course. If I could look back and describe him with all my experience at living—when I was young, and as I even got through college, it seemed like he worried about the rightness of his decisions and his work as to what he wanted to do. I mean, I would say he appeared insecure. Of course, this is *home*. He's talking to his wife and expressing his insecurities. But as a lawyer in Goldfield—I remember clearly some of the murder cases he had when Francie and I were little kids. He defended a murder case against Ernie Brown, a well-known lawyer, a district attorney, who practiced up here. And he defended a murder case against Jack Streeter, *well-known* lawyer, and he did very well prosecuting the murder cases against the big-city defense lawyers. Even as a young boy I was proud of him. But for me, he seemed

to really understand my personality, and he encouraged me, but he didn't demand the highest of grades. He seemed to have a lot of confidence in me.

He was honest to a *fault*. I mean, you can be so honest that it gets in the way of living your life. I remember this example one time. This is when I was practicing law. We were down at what's now the Pioneer. It's something else now. I had just *touched* a car as I backed out of the parking lot, and he made me go in and find the driver of the car. I tried to say no, you know, "You don't need to do this." The guy happened to be a person I knew. It was a real estate appraiser, and he was *drinking* in there. He came out to look at his car, and then he got mad at me for calling him out, because he couldn't see a *scratch* on the car. After he ranted at me, he saw Dad, and he knew father's honesty and his character. If you could say that being honest can be excessive and a fault, then that would be his fault.

*I did see a reference one time to an early politician who only served one term in the legislature, and everyone's summary was, "He was just too honest. He couldn't make it in politics."*

Dad was in a good spot for what he did, being a prosecuting attorney and then a judge. We were over at his office naturally. At D & D in Goldfield he had *several* offices, including access to the judge's office chambers, which were right next to ours. We ran in and out of that office all the time as little kids. He had a little spot where he measured our heights, and instead of writing on the wood, he'd put these little labels that he had for files, and we'd paste them on this little corner, and he'd measure our progress. That was our playground—his offices and the judge's office and the courtroom—when we were

young. We just had the run of it, you know. Oh, and we would participate vicariously in these battles with the county commissioners and engage in these various battles. We could watch how he conducted himself, and I guess we absorbed something from that.

*Now, how old were you when you moved to Goldfield?*

I was four months old. Francie was two. So I knew no other childhood than growing up in Goldfield there.

*What are some of your earliest memories of growing up in Goldfield?*

One memory was of Goldfield when they would repair the water mains. That seemed to be an ongoing process. They'd dig the hole first with what we would call a patrol, a big grader, and they'd get down and dig the rest with a pick and shovel, and that became our playground, as well. That was a very fond memory. I remember Mother bringing my sister Gwenie home in 1947 in a terrible snowstorm. That would be in March, because she stayed four months up in Reno—she went into Reno to have her baby.

I remember the donkeys. Yes, donkeys roamed in and out of Goldfield in those days. In fact, when we got older, they were used to deliver the papers—and also wild horses, but mainly donkeys—burros abandoned by the old prospectors.

I remember—this is *real* early—the Joshua forest that we have there. We felt special because we had those Joshua trees there. I remember the rivalry between Tonopah and Goldfield in the softball games they had. It seemed to me as a little boy, that Goldfield was inhabited by a *lot* of old Irish bachelors, who were miners who stayed there. And

Tonopah happened to be inhabited more by the Yugoslavs who worked in the mines. I think that may have been the way they divided out there. There was a natural rivalry that was fed by that ethnic division.

I *really* remember well Gertrude Cordova, who was the telephone operator there. We had the old-fashioned phone system, you know—everybody had it, I guess. The joke was that she would listen in on whatever phones she wanted to. It was kind of a joke. Dad would go downtown to the phone office to make a call that he didn't want Gertrude to listen in on. And it may have been true to a certain extent, but she was also very helpful in seeing that people were all right. I think everybody in Goldfield just loved her dearly.

I remember my buddy, Don Brawley, and his brother, John. Their father, old John Brawley, before becoming Justice of the Peace was the hoist engineer on the Florence mine, an 800-foot mine. We'd go out to see him, visit him regularly, and it was scary to see the shift change. You know, the guys would go down, and in your *mind* you'd fantasize about what it was like to go down that 800-foot mine shaft. I was frightened by it. Most of the kids weren't. We lived around blasting caps and old dynamite and, unfortunately, played with them a couple of times. But those were no-no's from our parents. We were taught to stay away from that kind of danger. And for the most part we did.

Oh, *gosh*, I have so many wonderful memories there. My childhood was characterized by getting the dogs and finding my way to my friends on the weekends, and we would wander around. Then we would never be too far away from our mothers. But we roamed around Goldfield, the ruins, on the weekends. There were a lot of buildings that had been burnt down and had been

destroyed. I remember one in particular was kind of like the Arc de Triomphe. When we read about that in the history books, I fantasized about that and associated that with Paris. There were some ruins behind the Elks building that we turned into ruins of Rome, just fit them right into our play.

There was one group of men that congregated, and these were old bachelors. I really don't know where the women in Goldfield were, because there probably weren't too many around. But they would sit out on the Goldfield Hotel steps. They'd come early in the morning and then in the afternoon. It just so happened that the Goldfield Hotel was across the street from Felis Grocery and Felis Drugstore and the Mozart Bar and Orlo Parker's Ford Garage. Those four businesses were there. These men would sit and talk and chew tobacco and smoke. My mother and probably various other people called it the "Spit and Argue Club." It was a *lot* of fun just listening to them talk about life in Goldfield and their lives.

I remember the war. And here I'm really at five years old. I think the reason I remember that was because my aunt was living with us, and she was single. There were a lot of the soldiers over at the army air base in Tonopah, and they would come to Goldfield. The Goldfield Hotel was used as officers' wives' quarters, I believe. These pilots were *endlessly* flying over Goldfield buzzing the hotel. I mean, I was a three-year-old kid, four-year-old kid, and I could spot you a P-39 Air Cobra. I knew what it was. Matter of fact, I remember one day there were a bunch of blue airplanes flying over and buzzed the Goldfield Hotel, and they were *not* like the army planes, because they had the radial engines, and I found out just what they were from somebody. That was my knowledge of the war.

That, and then there was a story of how some of the people who worked in the courthouse felt like we were being invaded by the Japanese. I don't remember well myself, but the stories were told later on, so I was able to incorporate it into *my* knowledge. But I do remember a big commotion and concern about being invaded. Can you imagine Goldfield, Nevada, being invaded? But people actually went to the courthouse, which looks sort of like a fort. If you see it, it has these corners with slits in them that could pass as gun ports. A lot of the county officials and various people from around town were up there on the roof of the courthouse, and it turned out to be a car full of Chinese-Americans who were arriving from Vegas or somewhere, probably looking for work in a Chinese restaurant—something like that. I remember that incident really well, even though I never participated in it.

*One carful was the invasion?*

One carful, yes. One car. And my dad joked about it for *years* afterwards, because he saw it as foolishness and didn't participate in it.

My father's murder cases that he was involved in were significant events. Later on, of course, in 1950, I think, I remember the atomic bomb experiments.

*What do you remember about those?*

I remember the *first* one, and we were looking out the window in our house, and we could see the flash south. I *really* remember that well. I also remember that we carried around cards in our pockets to detect whether or not there was any radioactivity. I remember well. Then when we moved to Tonopah we could *see* the blast better. I mean, half the

town would go out and see the blast. But I do remember that in Goldfield, though, *really* well that *first* time. Let me see here.

There are so many things. I can remember the closing of the mines there. To *me*, as a boy, it went like this: sometime around the first of the year, and during Christmas vacation, the Newmont Company—they had the Florence mine—closed out its mining operation. And, yes, to me it turned to a ghost town overnight, because the miners packed up their kids, and there was a parade of old, two-door Chevys, or Fords as they left town. They might have a little trailer; they might not. Then their cars were stuffed, and away they went, and you never saw them again. It really affected me to lose friends like that so abruptly—I imagine it affected them, too—never seeing them again.

*So you were definitely aware of Goldfield declining.*

Oh, yes! And I am seven, eight years old. I remember that one winter, and I'm sure it happened right around the first of the year. Some of the houses we lived in are still there. The Tex Rikert house, you know that one? We lived in that for awhile. There are pictures of me as a baby. And we lived in the Laub house, which is still there. It was two blocks from the courthouse. It is a building of some historical significance now. There's a Native American guy—I can't remember his name—who lives in there, and he's really kept it original. That old house had some pillars in it, some columns. They're still there in a bay window. It's pretty much the same as it was when we lived there, maybe even better. But the guy who owns it showed me how he had remodeled it, and how, when it was originally built, they used in many places tobacco cans to bridge between the boards, the one-by-

twelve boards. And there was all kinds of wallpaper. They just kept putting it on.

*I think the wallpaper was a means of cutting out the draft.*

Yes! I'm sure it *was*, yes. I remember, though, my job was keeping the fires going. We had wood and coal stoves. I got up—this was after I'm, maybe, eight or nine or ten—and I had to light the fires and make sure there was wood and coal in the house. It got really cold in the morning, you know.

*I'll bet it did. [laughter]*

We moved from Goldfield to Tonopah when I went to high school, but then we moved back. I remember getting very adept at getting a fire so it would bank, and it would last through the night. That was a skill.

*And one you would learn quickly if it were your job to get it going in the morning.*

Yes, and how to start the kitchen fire in the morning, so it got warm the quickest and got the water hot. It was very important to lay that fire properly.

*Now, what kind of trouble did you and your friends manage to get into? It sounds like your parents were pretty protective.*

They were. I don't remember getting in *any* trouble in the grammar school, except *at* school. My sister, Francie, was a year or two ahead of me in school, and I know the kindergarten burned down. Somewhere they had a small kindergarten. When I went to school I could read and write, and I *think* it's because Francie had a little difficulty, and Mother taught her at home, you know,

with her homework. But, when I went there, I could read and write. Therefore, I mean, what are you going to do with a first-grader who is able to do what you really learn? I knew a little arithmetic, too. I don't think I was a mischievous kid, but I was active, and that got me into trouble with the teachers. I was in trouble in school after the first year and spent many, many weeks up right next to the teacher—that was the discipline spot. Mrs. Culbertson first, and then Mrs. Crane. And Mrs. Crane, even though she was rough on me, I really liked her, because she was a *real* good teacher. She was a very strict disciplinarian, and we did things by the book. We read at a certain time, and if you didn't get your homework done, which was not a problem for me—I was getting it done too fast—then she would make sure you got it before she went on. She had my number, anyway, even when I went on to the other four grades, which was right in the school next to the courthouse, which is now, sadly, falling apart.

That was a *great* schoolhouse. We walked up the *big* stairs to the second floor, and on one side was the lower four grades, and the other side was the upper grades. For awhile, the high school was there, too, for a very brief while. But it smelled so good, the cleaning and fluids. I think George Kirby was the janitor, and he kept it spick-and-span. You know, there were oils for brushing it and shellac, and all those smells were part of my life in the first four grades, and the second four grades, too.

*Now, were the grades combined?*

Yes. Four grades in one room. Mrs. Crane had the lower, and Marie Wright had the upper four grades.

That reminds me of another memory of Goldfield. There was Widows' Row, and it

went right up alongside the courthouse—the road between the school and the courthouse, just in the next block up towards our house. There was Mrs. Tobin, Mrs. Wright, Mrs. Green, Mrs. Brown, and Mrs. Murphy, and they were all widows of Irish miners, and it was a well-known spot in Goldfield. These ladies had their little houses, and they were so clean and well-kept. It was on that street when I was a little, eight or nine-year-old kid that McCarran came. He was running his last campaign. And we were walking somewhere, and he came out and called Dad, of course. They had had some difficulties, but I know that they had cleared up their problems. But he came over and pinched me on the cheek and then patted my cheek, and I can *still* see his *white* hair and impressive countenance, as you know. Then he came over to our house for lunch. I think he died very shortly after that, because there was a big commotion, and he did not finish the campaign.

Later on—I put this two and two together—one of his stops that he had to make was Widows Row’ there, and he walked up to every one of those houses and stopped in and said hello to the ladies, and on he went. And there was some kind of an Irish connection there, you just knew later on.

*It sounds like your teachers then were probably women from Widows Row—a pretty stable group.*

Yes, except Marie Wright was not. Mrs. Crane lived on that row, and Marie Wright lived somewhere else. I had the most trouble with her. I guess I became more rebellious, but I’m leading you up to a time when I was the *only* guy. In these four years I was in the upper grades I was kicked out of school.

*What did you get kicked out of school for?*

I can’t remember. But I remember I was in the seventh grade or... I think it was the seventh grade. I remember now. She had put me over with a boy who was not learning as fast as she thought he should, so she put me there to tutor him. We are there by ourselves over in the end of the room. I started making jokes about answering the questions like in the history books, and so that made her mad. Then I did it again, and she kicked me out. I remember her saying, “Well, no, you get out of here!” I didn’t know where to go. You know, we’re slipping just until the authority came down. I went outside and the *dogs* were there. Everybody had their dogs, and they were waiting for us. We had three dogs: Smokey, Tipper, and Frisky. And there I was, waiting for Francie, because I didn’t know where to go. She *paraded* on up home. “Boy, you’re going to... I’m going to tell Mom on you!” I was told.

Dad came over, and there was a big conference, and somehow I had to stay out for a couple of days. That had a profound effect on me. It might have been that, or I figured out a way to use hydrogen peroxide or Clorox to wash out our ink. Are you aware of that? I don’t know how we got that. If you made a little mistake in ink you could wash it out. There you go. Maybe it was diluted. But I figured out a way to put the Clorox in the inkwell. And, *somehow*, if you did it right, it would cause the ink to act like disappearing ink. [laughter]

Fred Carlson had the best handwriting. He was writing a letter to Mrs. Culbertson, the Director of Education. Her visit was a *big* thing down there in Goldfield. He was writing this letter, and he was left-handed. Me and John Brawley and Don Brawley were sitting in the back. And then Fred called, “Mrs. Wright, the ink is disappearing.”

And we giggled. That could have been the reason that I got kicked out. I was a

mild discipline problem. It's hard to be too difficult when you're in a small school like that, because you're easy to identify.

*Did you also feel pressure as the D.A.'s kid to stay out of trouble?*

Yes! Oh, absolutely! I can remember getting in trouble with a guy named Luther Dorsey, who was an old bachelor. I don't remember anything about him, except he drove a big dump truck around town. We were teasing him, led by a high school kid. I think Luther Dorsey maybe had some problems himself. But the fact that we were ridiculing this old guy—the sheriff and Dad came down, and, boy, I was sent home, and I got severe discipline for having ridiculed this guy. I don't know what happened to the other kids.

I remember the other kids, some of them broke into the gym and did a little vandalism. They would go for the gym, which was a big, beautiful gymnasium for those days—bigger than Tonopah's gym. They got into trouble, and it caused some kind of a little separation between the boys, because *I* did not get into trouble, but I saw that the other kids were brought before Judge Brawley, the J.P. Somehow I'd earned favor with my father by not being involved in that. But I think it was the fact that he was the D.A., and I knew what I couldn't do. There was also something of a pilfering of the Goldfield Hotel by some of the kids that I was not involved in either. But I knew from my father and mother what was expected of me, and I didn't cross any lines other than little problems in school, as I told you about.

It was a wonderful childhood there. I don't feel I missed anything.

*Did you guys take any vacations—any family trips?*

Well, no! We did not have a car up until 1950. We did take vacations, but it was not—maybe nobody took vacations like they do today. Our vacations were coming up to Reno to see Grandpa Frank. And as such, we were better off than a lot of the other kids. We came up here, and we spent summers here or in Yerington. We went out on the Seiden ranch. In that sense they were wonderful vacations. We just didn't go very far from home. We also came up to Susanville, because by the 1950s, my Aunt Fran, Mother's sister, was married to a guy named Lyle Clark, who was a mechanic in Susanville. We spent time in Susanville, too, which was like a virtual paradise compared to Goldfield, so far as the trees and *lawns* and things like that went. Finding frogs.

*Yes. Trees! There are trees! Now, the high school was in Tonopah?*

Yes, when we went to high school, Mother and Dad moved over to Tonopah, and we moved with them into a house in Tonopah, and then we lived there. Dad commuted back and forth to Goldfield. By *this* time—this was 1952—we had our 1950 Buick, and so he could commute. A Buick Special, dark gray. I can remember taking it out of Lee Henderson's Chevron Garage and Buick dealership in Goldfield. This is significant because my dad did not know how to drive. He was fifty years old.

Lee Henderson was a childhood buddy of Dad's from Eureka, and Lee Henderson was a very gregarious guy. He had some ranches earlier, and so he thought Dad knew how to drive. We *drove* north out of Tonopah, and Dad would *gun* the engine, you know, and it was a clutch. He should have bought an automatic shift, but he didn't. That was the only car they had there that was a lowest price "Special." He *popped* the clutch, and the car

jerked. Anyway, we got going, and he shifted it up into second gear and popped the clutch again. I mean, these moves were so *abrupt*. He got the car going in second gear, started talking to Lee, and he said, “Well, I’m doing pretty good now, aren’t I?” And he just started to drive off the road to where there was an abrupt embankment. It was real close to the Victor gallows frame, which is a big, well-known gallows frame in Tonopah. He was driving off the road. Lee grabbed the steering wheel and *stopped* the car, and he says, “Pete, you get out of here.”

*Before we take you off to college, there were a couple things that you had wanted to add about your boyhood. One of them was that Penny Singleton wedding.*

Yes, I remembered there were some pictures of a pretty woman and a man, and my father and mother told us that these were pictures of Blondie and Dagwood, who came to town in the name of Penny Singleton and—I forget the man’s name. They got my dad to get the J.P., and my mother and dad stood up for them in their marriage. What I never got over as a kid was that they did not look like cartoon characters at all. They were the movie actors, or maybe they were radio, but I think they were movie, as well. And that stuck in my mind.

Another thing that I wanted to mention was the connection with “Death Valley Scotty,” who I *know* visited my father. I don’t remember whether he was alive when I was a young kid or not, but I *remember* it—seeing him—and they all had those hats. A lot of them wore those kind of like Stetson open-road hats in those days. I thought I remember him saying something about, “Tell this boy, your son, my advice, Pete, and don’t give advice.” Something like that. As it turned

out, when I went down to Death Valley in 1974, we went up and looked at Death Valley Scotty’s gravesite. I was to give the speech for Roy Torvinen’s investiture, and on Death Valley’s headstone is, “These is the words I live by: Don’t say anything about anyone that isn’t nice, don’t give advice, don’t complain, and don’t explain.” And I used those as the centerpiece for my speech, and it kind of reminded me of the earlier contacts with old Death Valley Scotty. I know those were a couple of things I remember.

*You also mentioned a day Frank Sinatra came to town and made quite an entrance.*

Oh! Did I? Yes! I was eight to ten, and Ed Kitchen, the old sheriff, called Dad up early on a Sunday morning, said, “Pete, get over here. We have this wreck, and we’d like you to be here.” I don’t know exactly what he said. Dad and us kids ran over to the *big* corner in Goldfield that makes a ninety-degree turn, and the corner is bordered by Martin Duffy, the commissioner, and the director of the Newmont mines. And on this corner was a yellow convertible, and I believe it was a Chrysler. It could have been a Lincoln. In that convertible were Frank Sinatra and Ava Gardner. Of course, half the people in town were peeking at them. They were just driving, as I understand it, from Reno to Vegas, and Ava was driving, and I believe she just maybe went to sleep or something like that, but didn’t make this real sharp curve, which people had trouble doing in the small town of Goldfield early in the morning. They were pushed out, and they had to be drug out by a tow truck there—truck of some kind—and I guess they did no damage to their car, because they did go on their way. But we got to see famous people early Sunday morning in Goldfield. And that’s how I remember that story. I do

remember seeing him in my mind, and that he just was really thin and wore a suit and the same hat, you know, like—what do they call that hat—the fedora or a Stetson? My dad has one, and he thought it was a Stetson. But men wore hats in those days, and Sinatra had one, except it was a thinner brim.

I just heard that the Goldfield Hotel sold for \$300,000, and that reminded me of the gentleman who owned it in the early days in Tonopah. His name was Brodsky. I think I talked about that, the Goldfield Hotel?

*I have that, actually, as a note from last time. Ben Brodsky was one of your dad's best friends?*

Yes, he was a real good friend of my father's, even though he was from Los Angeles. He gave us a twenty-dollar gold piece and gold chain. He gave it to Dad for good luck, and then Dad passed it on to me. But Brodsky was a big figure in my memory, because he was a man from the big city and a very wealthy man, a very successful man, a good friend of both my mother's and father's, and he was the first *Jewish* person I ever knew of. I actually remember my mother telling me kind of in the way of, "I want you to remember that Brodsky was one of your dad's best friends when you grow up." And I didn't know what she meant. Later on, I knew from my mother that she was instilling in me a knowledge that because somebody was a minority... kind of fighting prejudice in those early days. And that's what she was doing when I even figured that out later on in life. I had many other opportunities from my mother to be taught those kinds of things, too.



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## COLLEGE AND LAW SCHOOL

*What made you pick UNR when it was time to go to college?*

There was never a time in my life when I was not going to college. It never *occurred* to me that there was going to be another decision. A high school was just a way station. That's what I remember. My parents were not people of means, and I think they just assumed that we would go to college at the University of Nevada. My mother went to Northern Arizona University, I think. And my father, of course, went to St. Mary's College and then Loyola College of Law. But it was just presumed that I would go to the University of Nevada along with my sister, who was in the same year as I was in school. I think it was just understood. After high school was out, we got all of our presents together from graduation in the form of clothes, and off we went to the University of Nevada with Fred Carlson, Bruce Downs, Francie, and myself. I don't think there was anybody else from that class who went at that time. No, Ramona Booth. That's right, Ramona Booth.

We came up here, and we got an apartment over there by the fairgrounds. I remember this so well. Fredman Mawh, who owned the Reno Rendering Works and had investments around town, rented it to us. It was a basement apartment in his house. My aunt didn't want us to move over there. It was a little ways away from school, and it was close to the rendering works for the animals. My dad came up to visit us unexpectedly on a Saturday morning. He came to the door, he knocked on the door, and I got up and opened it. He came in, and he saw a bunch of beer cans on the floor.

He said, "Gwen, come here and look at this." And so we looked. Fred and Bruce were all nervous by then, and he said, "I want you to get ready. I want you to come with me now." So I did. We went out somewhere, and in a stern voice he says, "I want you to go up to the university, and you either get into the dorms, or I want you to go join a fraternity or something where you're closer to the university, and you have supervision." I went back to the room and told the boys I was not going to be able to take the share in the

apartment the next month. Fred happened to have a cousin in the Lambda Chi fraternity, and that's how we went up that day to rush. I knew I had to do something, and that's how I got into a fraternity.

I took a pre-law course, and my advisor was Higginbotham, who twenty years later I have his estate here—twenty-five years later—or however long it was now, I've forgotten. He was the advisor, and he was the history professor. I really enjoyed the four years at the fraternity. It was a growing fraternity. It had a new house. I *needed* structure, and I needed the discipline. I was sixteen years old, which is young, but I was *young*. I was a very young sixteen-year old in the college. You had to have dates for dances—pledges had to. Of course, I tried to get out of it by saying I couldn't get any dates, because everybody was older than me. I don't know whether it was the house manager or my big brother in the fraternity, but they found me girls who were like juniors in Reno High School and fixed me up.

I would spend my time down at the state building here where they had these high school dances. That's where I would come down and kind of *hang* out with the younger kids in that first year.

*So did you feel socially that you weren't quite there?*

No, I felt *definitely* that I was not there. I was OK with the boys. Course, my sister supervised me. She was eighteen, and she was very mature for her age, but I just felt more comfortable around the younger kids.

Anyway, I did very well the first semester at the university, and then I kind of faded. I would summarize my college as being *close* to good grades, but never quite making it. I'm sure a lot of people are in that category. I

think I had maybe a 3.3 overall average, which was not good enough to be on the honor roll. What was it—the Phi Kappa Phi? But it was close. Respectable for me. My parents, I think, were *always* more interested in my character than they were in how well I did academically.

*How much of a change was it to come from Goldfield to Reno?*

It was a big change. Goldfield had about three hundred people, and Reno had fifty, sixty, seventy thousand at the time. But Reno had movies, and it had a *river*, had green *grass*. There were *trees* lining the streets. Goldfield is a town with no lawns, maybe one little patch, and the physical surroundings were very significant to me, although I spent a lot of time up here. My grandfather was Frank Ingram. I think I talked about him earlier. He was a lawyer, and he lived up at 325 Ridge Street on the corner of what was then Belmont Road. So, I mean, well, hey, I was familiar with Reno from that standpoint, and I had a few friends here. I'm going to say, although the physical surroundings were so different, I felt at home here. Of course, my mother harped on liking Reno. She always wanted to come back here. Reno was more of a Mecca for me then.

*Your mother wanted you to be a doctor, right?*

Yes, my mother and old Charlie Stewart. Charlie Stewart was an African-American who had Stewart's Smoke Shop in Tonopah. He sold candy and cigarettes and cigars, and he had slot machines and a couple of card tables. All the kids hung out there. Between him and my mom, they really tried to get me to pursue the career of a doctor.

I got up here and cut open the starfish in the zoology lab. I looked in, and I didn't see anything else [laughter] except gray matter,

and it just wasn't for me. I had no bent along that line. I think my mother was probably in love with the concept of "the doctor." I think she'd had enough of lawyers—being married to one and her father being one, but that just didn't work.

I really didn't know what I wanted to be yet. I remember my father asked me at the end of my third year, "Well, now what are you going to be? What are you *pursuing* here?"

I said, "Well, I'm going to be a lawyer." But that was my way of having an answer. That's all I did, was have an answer. I had a lot of credits. I took more than I needed all the time, but I wasn't *in* anything particular. I had to acquire my major of history and political science just by the number of credits I had. I just really didn't have a particular interest. I guess that's why I went on to law school—I backed into it.

*What kinds of things did you do for fun?*

In those days exercise wasn't much, like it is today. I would say I like to run—race walk today. That's one of the major things I do for fun. But in college, I guess, I drank beer. That was my major interest, drinking beer.

I worked for the last two and half years of college. I don't think I worked all three of my years. I worked two days a week. My father and mother were willing to pay for us, but we worked to help—both me and my sister. We went down to Traynor Shell service station, that's the site of the federal courthouse today. Buddy Traynor was a well-known boxing promoter. He had the most successful Shell service station in the Western United States, and he hired guys from Tonopah. [laughter] We could always get a job at the Traynor Shell service station, and there was a social aspect to that, too. Kids from Tonopah worked there, and we associated together. I did not have a

car, so we didn't travel around. We didn't go to different places. I had interests, and we went to all the intramural sports and those things. I really can't remember, other than drinking beer, what we did through college. Hung out, I guess. They call it "hung out" today.

*Some things never change. [laughter]*

Yes! [laughter]

*What made you choose, then, The University of Santa Clara when it was time to go on for law school?*

I was all set to go to Notre Dame University, and I imagine half the Catholic boys in the hinterlands have Notre Dame as their football team and the school as a place they would like to go to. I applied and got into Notre Dame and was set to go. This was all done.

I got involved in a romantic interest. This girl was a freshman in university. She was a couple of years younger than me, and she was having difficulties with school at the time, not because she wasn't smart, but because she was rebellious. I got engaged and decided I didn't *want* to go back to Notre Dame. So, here I am almost graduating from college and trying to look for another university.

My mom and dad got me, and we drove down to the Bay Area. We started at San Jose and got a Santa Clara application, a Stanford application, a USF application, and a University of California application, and frantically put those together. I remember going over the question, "Have you ever been put in jail?" I remember my dad saying, "We'll leave that question for last," because I had been arrested up here—I was real nervous about it—and put in jail for a minor in possession of alcohol. You know, it's a big deal when you're asked that question on a law school

application. And I had been disrespectful to a police officer. Anyway, I remember those questions.

Santa Clara was the first school that accepted me, and this probably had something to do with Notre Dame having done it already, but Santa Clara was also the closest school to San Jose State, where my girlfriend was going to go, if she could ever break free of Nevada. That's why I went to Santa Clara University. I think Stanford accepted me, too, provisionally. I could have got in there, or I could have gotten into USE, but I went to Santa Clara because it was closest to San Jose State, and it was also a *beautiful* surrounding. It was *really* pretty. It had that garden—what do they call it—the “garden university”? So that's why I went there.

I met a woman named Elaine Kiley, from sources with the university of places to stay. She had had nine children or eight children. They were all grown, and she was renting rooms and board to people who were going to Santa Clara. That's probably real important to me, too. She was such a *nice* person. She lived on the corner of Liberty and Franklin Street, and it was a *big* house. That's why I made the agreement to room and board there. I knew nothing about the Bay Area. That deal was all done by, oh, the middle of June. The thing I remember so much about staying with Miss Kiley is that she was very petite, and her husband was six-foot seven. He owned Kiley's market and had been the mayor of Santa Clara. He was from Ireland by way of Australia, and I just fit right into this family who had *many* ties with Santa Clara.

The Carmelite monastery there was right on Franklin Street, right across from the Kiley residence. That's where I went to Mass. In those days they were kept cloistered. I remember liking to go to that little chapel there for Mass. I walked to school. It was

nine-tenths of a mile to school. I walked there in the morning and in the evening to study. It was a wonderful time there. I accidentally made the best choice for me—going to Santa Clara.

We had a class of about fifty. The year before I went to Santa Clara—that would have been the 1960s graduation class—had the *lowest* percentage of people who passed the bar in the state of California. So, that year we had a new dean—he was former dean of Georgetown University, just to show you what the Catholic schools could do—and a real property teacher from Harvard. We had some guy from somewhere in Chicago who was brought out to teach corporations. George Strong was assistant dean. He stayed; he remained. What I am saying is they just about cleaned house. So, we had a new faculty, and I think it was a pretty good faculty. Two or three professors were left, and, also, that year a guy named Hardy or Hardin in Oakland, a lawyer, came down—this was happening just as we were going in in 1960—and he made this kind of a speech. This is what we heard: “What's the matter with you knuckleheads? You're not studying enough. Here's \$800,000 for a new library donated to Santa Clara Law School.” We went in with *all* these prospects of a new beginning to Santa Clara University. They started a night school the next year. That was an exciting time down there. It also was the first year that Santa Clara University went *co-ed*, maybe my second year in law school.

Half the people who were in law school—there were fifty or so—were Santa Clara graduates. The other half are, I like to say, the beginnings of Silicon Valley—not a word in our vocabulary in 1960. Santa Clara didn't have a law review, but they started it that second year. The people who were good students were tutors, and I had the mayor of

Los Gatos, who was going to night school, who had a business, and I forget his name. I had a guy who scored ninety-nine on the LSAT and other people who were very successful in that valley wanting to go to law school at night. That turned out to be very good for me to be involved in the beginnings of a law review.

The other thing that was really significant was that Santa Clara University was a place where all the Breens went to law school, and the Breens were the people who actually were in Hollister. They all moved down there and settled in Hollister. It was a large family, and their kids went up to the university at Santa Clara. Tom Breen was in the law school—one of the people who was in the law school the same year as me. His uncle was Father Donohue, who was the president of the university—Patrick Donohue—and he was a Jesuit.

It turned out that first year I was the number one student in grades. I'm telling this because of this story here that Tom Breen was so *well* known by everybody in Santa Clara University, and here I was this quiet, nervous kid from Goldfield, Nevada—somebody who didn't talk much, because I was nervous about passing. And it turned out that I got the best grades that year.

The real property professor from Harvard was the advisor for the law review. They put the list on the bulletin board of all the people who were going to make up the beginning staff of this law review. Then they had me—they did it by grades—Peter Breen, and then they teamed on the tenth person who was Tom. He didn't know his history about the Breens and the Donner Party or being involved with Santa Clara University—he didn't know about it. He put Tom Breen down as the *other* Breen. Tom Breen became the other Breen at the law school, and I was the

famous Breen for a little while. It was quite a humorous incident in circumstance that we played on and used all the way through law school.

*What was it like to be in law school in California during the early 1960s?*

I would say it was the perfect time. The Sputnik had... maybe it hadn't generated all this concern about grades. Lowry remarked, "You Californians will not give up your California sun for studies." The people—I don't want to say they weren't serious—had a balance about their studies and their time, their free time, and that wasn't the case later on. We hadn't hit the period of great competition for admission to law schools.

It was the best time of my life as far as studying goes. The atmosphere was much more relaxed, and probably in *all* law schools. I had friends going to Stanford and Berkeley and Hastings. (I forgot to mention I applied for Hastings, too.) While the fierce competition had not hit the schools yet, the hippie movement was waiting to happen. It was close, but it wasn't there yet. California was not nearly as crowded as it is, and *yet* where I went the people were *there*. They were going to create the Silicon Valley. I did a job as night watchman for a printing company, and the owner of it did something that vaulted the printing and made him a millionaire later on. He had a small operation there in Santa Clara. That time of going to law school was probably the best time for Santa Clara University and most of the other law schools around there. We finished before it got really tough.

*Yes. When you look back, were there any hints of the social revolutions that were going to come, like women's rights, civil rights, the Vietnam protest?*

As I saw it, no, and I don't think anybody else saw it either. I do believe that maybe the Jesuit schools were working on these kinds of things. We had a half a dozen... maybe a third of our class were females. But not really, no. I don't think—even looking back—that there was a hint of the explosions that were to come. They came right behind me, too. I got out of there in 1963, and they were on the scene in two or three years, I would say.

I do remember this with regard to drugs. I was in my second or third year. I'm studying. We had a San Jose police detective there in Hollister. And there was this guy, and I can't remember his name, but he was separating out little beads from pills. He says, "I'm taking these to help me study." And, of course, he had some amphetamine type of a drug. He was saying, "Take some of these and don't tell *this* guy," who was the cop, "that I'm giving you this." I knew that something was wrong, but I didn't know what it was. I didn't do that, and neither did anybody else I knew. But that was my only hint of drug use in the law school. This guy eventually got busted for possession of drugs and didn't finish at Santa Clara. But other than that, I wasn't aware of any drug abuse, any drug use, or did not know of any of these changes that were *right* there. I had a great job in law school at the Lockheed facility there, just in my third year, moving furniture around. I imagine it was growing and exploding, and I didn't know.

*Did you have a particular focus while you were in law school, for example, criminal law or civil law?*

No, it was to graduate. [laughter] It was to get out and pass the bar.

*Were you nervous about passing the bar?*

Not really. I started out in law school doing *really* well, just like I did in college, and it took me clear to my third year to work my way *down* in my grade point average, and then had to try to bounce back up. But something happened in my last semester—I don't know what it was—a change in attitude. I wanted to take that bar exam and pass it. So *we* at Santa Clara set up our own bar review course. We bought some notes, I forget where. We had a little committee to do this, so we got bar review notes, and we stayed right there, and we did not take Brook's bar review course. We got a guy named Vasconsez, who was an assemblyman later on there, and some of the smarter graduates of Santa Clara, and they taught us. Maybe a professor or two with this bar review course. And we *worked together* on a *daily* basis, day and night, and we were *very* serious. As a group it was like the class is continued on. They took the California Bar about a month before I did, or three weeks.

I came up here to Reno, ensconced myself in the Kit Carson Hotel and continued my studies. I'm sure I studied as much in the three or four months for the bar as I did in perhaps all of law school. You know, you're nervous about passing. So much is riding on the bar exam. It is given once a *year*. I was *not worried* about it. I really knew I was doing my best. This was the best I could do.

That reminds me of something that my father did. I was comfortable taking the bar exam, but I was not comfortable my first year in law school. I wasn't *getting* it. I came home on Christmas vacation, and I drove up from Tonopah to Hawthorne with my dad. "I have to study," I said, and so he went over to court.

He came back and had lunch with Jack McCloskey. He was the head of the paper

there. Dad came over to see how I was doing, and I was sitting there just *going* over the stuff. He says, "How you doing?"

I said, "I'm just going to fail, Dad. I hope you're not too disappointed in me. I'm *not* going to make it."

He said, "Well, let me see your books." So he took out my torts book, and he says, "Did you make all these marks? You read this?" I said, "Yes!"

He said, "Well, where are your notes?" I gave him my notes, and he looked through two or three books, and basically he said, "Put your books in the trunk. If you've studied this much, I *know* you're going to pass."

I didn't touch my books all through Christmas vacation. I sort of wasn't allowed to do it, and I just went around with him to Vegas and Pioche, and he sat outside of his district. I did *very*, very well. I did the best in the class. I had that same feeling that did me well. You know, he kind of showed me clearly that if I studied and worked at something that I was *going* to make it. I was confident by then.

*Now, your grandfather passed the bar without ever going to law school. How would you assess the value of law school?*

It was my dad who did go to law school one year. The thing about law school is this. It's like going up here to the Judicial College, right after I was a judge. *You* can learn on your own if you study and have practical experience probably enough to be an attorney, pass the bar. In California, you can still take a test after so many years experience, but you can get that formal training and see the background of those things you have to know in a formal setting in law school so much faster. You can get the spectrum and the depth of understanding that you need to know in

that formal setting much quicker, and you get a broader, more developed, background than you can learn from the school of hard knocks experience. There is no question that you should learn that in law school.



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## LEARNING TO BE A LAWYER

*How did you land your first job?*

In law? Let's see, Carl Osso came up here. I had settled a case after being hit by a police car in Santa Clara. I think it was the Santa Clara Sheriff's Department car that hit us. In my third year we were driving up in Sunnyvale, and we were going to a hotdog stand, and we got broadsided by a Santa Clara County policeman going to a murder. A policeman had been murdered, and to make a long story short, we didn't get arrested—they thought we were drinking. They should have had their red lights and siren on. We sued them, and we had this little settlement. That was the money I brought up here to study for and pass the bar.

I did not go to work until November or maybe even December, because I had this little, this cache of money. I went around, and I talked with Spike Wilson, and he was going to leave the U.S. Attorney's office, and I was going to get that job. And it *dawned* on me that... see, I was still young for my age—I was twenty-three at the time—and I realized, "Breen, *you* do not want to be the

U.S. Attorney with all the responsibilities that are entailed there."

Ernest Brown, had been appointed senator. He was defeated for that, but he was a *firey* crusader. Did you ever hear that name? Ernest S. Brown. He was the district attorney here.

*Wasn't he the one who stopped the Mafia at the border?*

No, no! He stopped the unions trying to come in here to Reno and organize them. He stopped them on the Verdi bridge. They say he walked up to the bridge, and he walked to the middle of the bridge, and the union guy walked up, and people were watching, and old Ernie Brown reached up and socked the union guy. That stopped the invasion of the unions into Reno. But he was a *firey* guy—*wonderful* person. He liked me, because he was down in Goldfield when he defended Cedric Cole in the murder case, and he was very friendly with my dad. He liked me, and he said, "Bring your boy up to see me."

So, here I was; now wanting this job with the U.S. Attorney's office, sitting around, and once again old Dad came up and said, "Well, why don't you go down and talk with Ernie?"

Ernest Brown knew my father, because he defended some murder cases down in Goldfield, and he had known him for a long time. I was up here trying to decide what I was going to do, and my dad took me down to talk with Ernie. He had his office right down here in the Triune Building. I'd met him, but I didn't know him. He took me into his corner office and showed me his library, the most extensive personal law library, probably, in Reno, even as good as the Woodburn firm. He showed me that, and then he showed me the secretary's office. He took me to this other office, and he says, "Now, Peter, if you wanted to come in here, this would be your office, and this would be your desk, and this would be your credenza, and you could have this if you do a little work for me, and I would guarantee you so much." And then he put his arm around me, and he says, "You know, Peter, you can't practice law on a street corner," which, of course, is what I was doing at the time. I didn't have a place to go. And so I went down that Monday, and I was with him for a wonderful year and a half before he died.

And, gee, I couldn't... I just loved him so much instantly I went to work for him right after Thanksgiving. We had the arrangement that he would guarantee I would make a hundred dollars a week, and whatever I would make on my own I would make on my own, and I could use Tia. I would use his secretary. We just hit it off. He had all these divorce cases he didn't want, you know, because we were still at the end of the easy divorce. The *first* year in private practice I made seventeen thousand dollars. It was *phenomenal*, because of just living off of Ernest Brown's hand-offs and cases he did not want.

Then we stayed together, and I improved a little bit, and we had two secretaries. I kind of worked, helped with the management of the office with the two secretaries. Ellie McCuiston was his secretary. She went over to work for Barrett.

Ernest *died* at the start of my second year with him. A lot of the clients he had came and said, "Well, you're a wonderful boy, and you got great potential, but we'll see you later."

Blake Moffitt was in town, Dorman Hotel Supply, maybe Isbel Construction, and they wanted somebody with some experience. I was not there long enough to ingratiate myself with the clients. But I had a lot of *lawsuits*, and not too many people wanted to take over the cases. Ernest did a lot of labor law for their management, and I finished off a few cases there. Management put a few restraining orders.

Then I struggled around there, and John McCune and I became partners. John McCune was a *really* good lawyer, who had the hard cases, but he worked for the construction and contractors, and I think he did a lot of management. He did a little labor law that he had to do because he represented the contractors. We set up our partnership, and I only lasted there about a year and a half, maybe, and went to work for the Attorney General's office. I really wasn't ready to be a partner in a law firm.

Judge Craven was best friends with my mother and good friend of my dad. Judge Craven was *the* person responsible for the Judicial College coming out here. If you named one person, he would be it. Anyway, when Ernest died, they were just starting a law clerk program here, and he called me up, and he said, "Pete, I want you to come over and be my law clerk."

I said, "I'm sorry. Now I'm a practicing attorney!" [laughter] I wasn't going to do that.

That was a step backwards for me. I should have done it right after Ernest died and been involved in more of a training program. Ernie didn't live long enough for me to benefit from his training, from the grand knowledge. It's funny now, I can't remember how long I was there with him, not long enough, but long enough for him to instill in me those qualities that he had. I mean, I knew what a good lawyer and a powerful lawyer and an honorable lawyer had to do. I learned enough from watching him.

Ernie was against the *freeway*, so he had *all* these freeway cases. Eventually, the freeway made it, but he fought the freeway at that location. Maybe he would have been right. Maybe he was right. Maybe they should have moved it somewhere else. But Ernest Brown had all *those* clients associated with that, fighting that battle.

I remember in one *day* we would have Dr. Detar, president of the John Birch Society, coming in, and Sister Mary McCarran, who were sort of friends and clients of Ernest. They would come in to *see* him. Clel Georgetta, whose office was in the Triune Building there... Clel Georgetta, gosh, for an hour here I haven't even got warmed up to Ernest Brown. I think it's interesting history.

Clel Georgetta had been a judge. He owned the Triune Building. He wrote the book: *Wool, Beef and Gold: Sheep, Cattle and Mining Stories of the West*. He was sort of against the BLM, and he was a conservative guy. Clel Georgetta would get me, and he'd say, "Now, this is the way you be a lawyer, Peter. Come on downstairs." And he'd take me down to his basement. Clel was a personal injury lawyer and was maybe one of *the* first. He says, "I have this file of *all* these law memos. Here's one on hearsay exception, this exception to hearsay. And when I'm going over to court, and I think I have an issue that's going to come

up in an argument or in a trial, I take my little memos, and I go to the judge and I say, 'Well, Judge, I happen to have written a memo on that, on this exception to the hearsay rule. Here's one for you, here's one for counsel, and here's one for me.'"

I remember going upstairs and saying, "Ernest," or, "Ernie, I can't be a lawyer who takes this. I can't do all this."

He says, "Well, Peter, you know, you just keep doing what you're doing. Clel works really hard. His wife left him, and he doesn't know his daughter, and all he does is work. And there are other things to life than work. So you just keep going and go home to your family at night." Because I think it was on the periphery of the John Birch Society, the fight against the freeway, and rubbing elbows with people like old Clel Georgetta, and they were conservative people, to say the least. A wonderful first job for me.

*Do you remember your very first case?*

My first case had to be a divorce case, but I remember my first case that Ernie gave me. I think it was somebody—and I don't even remember my client's name—but it was against Al Gasper doing business as Starr Taxi, and Ernest didn't want that. It was a personal injury type of a case. I filed my lawsuit, and then I didn't do anything. About two months later Ernest came over and said, "Peter, you know that case you had?"

I said, "Yes."

He says, "Well, could I look at the file, please?" He picked it up, and he says, "Well, you know, Peter, you haven't served the defendant yet, and you have to...." He showed me how to file a complaint, give instructions to the sheriff, and he says, "An action is commenced by the commencement of the filing of the complaint and the issuance of

the summons. But after you do that, you've got to have a sheriff serve the other person, and this is how you do that." And he was so gentle with me.

So I filed. I had the sheriff issue the summons, and Bob Hibbs called me up and said, "You know, you didn't sue Starr Taxi as a corporation, Peter. I'm going to move to dismiss, and then I'm going to settle with you."

I ran in—this happened at about ten days, because Ernie Brown was watching me. I said, "What am I going to do, Ernie?!"

He says, "Well, it hasn't been twenty days since you filed the lawsuit, so you can amend your complaint. We'll just amend our complaint and name the proper defendant and serve old Bob his, and serve the resident agent, and then he won't be able to do anything about it."

So I did. And Hibbs called me up and says, "What the heck are you doing?! I told you that on information that you weren't going to act on."

I said, "Well, you didn't say anything." Anyway, Hibbs yelled at me. That was my first lawsuit.

I screwed it up twice. But then through the tutoring of old Ernest Brown, I don't think I screwed the third or the fourth thing up on that thing.

*Did you win or lose?*

Actually, we settled the lawsuit. My *win* in litigation came when once again I took a case of Ernie's over a promissory note. Dorothy—gosh, I forgot her last name—but Ernest sent me over to try it. It was set for trial within a few months. We associated with Ernie, and Dick Waite was opposing counsel. It was a promissory note, and that's pretty easy to prove. I had my *Am. Jur. Proof of Facts*, and I was trying to ask these questions,

and Dick Waite kept *objecting*. It was in the afternoon, and I didn't have my promissory note admitted, and I was just about to cry. It was in front of Judge Barrett. All of a sudden I turn around. There's Ernie Brown again, and he's *stepping* over the railing. He says, "Your honor, if I may, I've just been watching my young associate here. If I could just interject for just this moment?" He proceeded to say, "Well, he's *proved* his case. This *guy*, this goon..."—I think he said goon. That was one of his favorite words to use on the labor union people. He says, "He's just arguing this case, and we don't have to do anything." Anyway, Barrett let the promissory note in, and after some more beating by Dick Waite, there wasn't anything to do. The defendant hadn't paid the money. The next day we got the judgment, as I remember.

So, the Starr Taxi case was my first lawsuit, and then this promissory note. Gosh, I'm sorry I forgot her name, because I represented her later on in another lawsuit. But that would be my first win, the promissory note lawsuit against Dick Waite over four or five months. Then I helped Jim Johnson, who was over in that building, too; I assisted him in a criminal case where we got the case dismissed, because of R. Gainer Barry. He is a good lawyer—Bob Barry. He worked for Raggio at the time. He was the guy who got the job *I* wanted to get from Raggio. But he *erased* a drawing on a blackboard when we moved for a mistrial, because he had destroyed evidence, and it couldn't be recreated in exactly the same way. Barrett granted a mistrial in that case, too. It all happened in the first year. It was at the beginning of a year or so with Ernest Brown, 1964, I guess it was. I guess I was there for two years with Ernest. I needed to be there ten.

*Is there such a thing as a typical day in the life of an attorney?*

I would say the life of an attorney in general practice is characterized by moments of *great* anxiety and perhaps drudgery and an occasional moment of great satisfaction that you cannot get about anywhere else—when you *do* something for somebody, you know. Justice is done because you played a small hand, a small part, and that doesn't happen every day. That's the daily life of an attorney, looking for that moment to do a good thing.

*How much of an influence did the local bar association have on individual practices then?*

It was a family in those early days, you know. Nineteen sixty-four to 1967 was about when I practiced over here on my own with Ernie and then with John McCune. We all met over here in the mornings, out here in the foyer, when they were just building this new part, for that first year or so. And you set your cases. You had your uncontested divorce cases, the probate cases. You set cases for trial downstairs in Aldo Ceccarelli's office. There was a *lot* of social interaction. The lawyers met there, and they talked over their cases, and they settled them. We knew what all the other lawyers were doing; we knew about the trials; we knew about the murder cases Bill Raggio tried. You could come over and watch.



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## RENO LAW AND THE YOUNG JUDGE

You *learned* to be a person of your word, because if you *didn't*, the word got around so rapidly, that the regular action of the bar association had a *great* effect on a lawyer. If you met a powerful man like Sidney Robinson, you wanted to tell him the truth and represent honestly and properly to him, because you didn't want to be on his bad side. The daily activities of the local bar association had tremendous effect on you, wanting the respect of the judges, or because you knew them all, and you were going to see them all. It was a powerful force.

*Did you get involved at all in politics?*

No, I didn't. Not in the local politics, not in any organizations, either, at the time.

*What was Reno like back then? It sounds like it was more of a personal, face-to-face....*

Oh, it was. The practice of law was very personal. Very few people were specialists at the time. I mean, my father-in-law at the

time, Emerson Wilson, was *the* real property guru. Sidney Robinson was, too. Bradley and Drendel—the beginnings for specialization were there then—were beginning to branch off into personal injury cases. The foundation was there. It only needed to develop in a few years. But everything was done on a handshake, a phone call. You didn't turn anybody around. I can remember Bruce Roberts telling me, "You want this in writing?" And he was associated with Tom Cook.

"No, because if you turn me around, everybody will know it, and I will not deal with you again." So, I mean, that's the way it was in those days.

*Seems like a pretty big change from today.*

Yes, and it's the numbers. There are so many you probably can't practice law like we did then, just because the city is so much bigger, and the litigation is more complex. You can't keep track of what you said as well, maybe. Las Vegas, I think, was much the same

way in the 1960s, even though they were a lot bigger.

*How has the technology changed from the time you began?*

Oh, it's radical, yes. The computer has changed everything here, too. It's tightened up in many ways. Yes. Availability of the department is known *instantly* for the cases. In a way, the computer is good, too—we're more responsible. Gosh! I think when I started to practice the Xerox machine was brand new. I think it was! You couldn't do without it today. The filing by fax—we're doing it. It won't be long now, it'll be all online. We're able to handle the numbers today that we couldn't do under the old way. You couldn't handle the numbers, though, like you do today.

*Are there any changes in legislation that changed the way you practice law?*

None come to mind, but I'm sure they're there. I think the bar association, of course, has become much more involved in the practice. I don't remember a person being disbarred. Maybe Harry Busher got into trouble in the early years of practice. Now the bar association sees these disciplines occurring on a regular basis. The *education* of the bar association was left to the lawyer. Now it's more structured and more formal, and it's *important* to be that way now. There's a much larger body of knowledge and experience out there. Of course, we're talking forty years.

*Now, you were a partner in Wilson and Breen when Governor O'Callaghan appointed you?*

Yes.

*Did you have any inkling that the appointment was coming?*

That took place over a long period of time. It was 1973. The legislature created the post, and fortunately or unfortunately, they made the appointment to take place as of January of 1974. And the legislature created this post early in 1973, so there was a *long, long* period of time. I had decided I was interested in it—really interested in it. My father had more or less discouraged me. I don't know why. I think he really enjoyed being suited to be a judge, and he was just honest to a fault—very conscientious—but he said, "Make the money, Peter," basically. I mean, not make the money, but, "Be a lawyer," and I really don't know why he said that.

But I had decided I wanted to take a try at it, and so my law-school chum and friend, Noel Manoukian, was associated with the governor as his lawyer. I mean, he wasn't his lawyer, but he did a lot of legislative counseling for him. He said, "Hey, are you interested? I would put in a good word for you." So *anyway*, my name got put in. And I heard nothing for awhile, and then several people were interested in it, like there was a list of fifteen or twenty *guys*. No females applied. I didn't know what to expect.

I get this *call* from O'Callaghan. I go over there to see him. Remember him, he's an imposing figure, especially to a damn lawyer who wants an appointment. At that time, I was the lawyer for the Employment Security Department. It was a private contract. I go over there, and he's reading something. I sit there, and, after awhile he says, "Well, I hear you're interested... think you're ready for the robes?"

I say, "Well, yes, sir."

He says, "Well, you get some recommendations from some people that I

know.” One of them was Bill Beko, my cousin; Pat Mann, who was a judge down there in the Fifth District at the time; Jack McCloskey. “And whatever else you want.”

So I do, and then I go out and talk to those people. I remember saying, “Oh, Governor, Pat Mann is my cousin.” I say, “I think he might be prejudiced against me.”

He says, “You let me decide who I want. You get your own recommendation if you want, but I want you to get a recommendation from these people.” At the time I’m sure that he *knew* these people well, and he wanted to see what they would say about me. Anyway, I did, and Pat, and Bill, McCloskey made their calls, I suppose. Anyway, this was early in March or so. I don’t *hear* anything. I didn’t hear *anything*!

Emile Gezelen called me, and he says, “Well, Peter....” Emile Gezelen was a dear friend of mine and a well-known lawyer in this town. I had rented some office space from him. He said, “Well, I don’t know. I can’t say anything officially, but I want to tell you O’Callaghan called me, and he asked me what I thought about you.” He said, “Boy, I can’t tell you something, but I’d say it looks encouraging.”

That was in the bar association meeting in May. Here I was trying to practice law and hear *nothing*. And then along comes Emile Gezelen’s unexpected *death* around in the summer. O’Callaghan appoints Forman, and I think, “Well, there goes my....” This was my shot at it.

Nothing happens, and nothing happens, and sometime in the summer Beko called me, and he says, “Well, I just talked with O’Callaghan. I can’t say anything, but sounds pretty good, you know.” And it was Beko here and these people. I knew him when I was a little kid. He said, “I can’t say anything *official*, but things look pretty good.” And I don’t hear anything.

I talked with my mother. Of course, we had had some recommendations before, and then there wasn’t any structure in those days. Guinan was appointed. You don’t push O’Callaghan, you know, and he knows what he wants to do. I think, in retrospect, he probably wanted to see how I had been, what kind of a person I would be, because I was really so young. I was thirty-three at the time.

Life goes on like this *all* the way through the summer and into the fall. Meanwhile, there was speculation in the paper, and all these other people, including Russ McDonald, were mentioned, and all these really good people. Everything was quiet. Somebody calls and says, “You better get Bob McDonald to call for you.”

I say, “No, I don’t want to beg.” I had done what I could. “I don’t know what else to do.” “You better go to the governor’s barbeque. O’Callaghan goes over there.” I did, and it probably was a good thing I didn’t try to hustle him at all. I just put in my résumé and put in my applications. Pretty soon I get a call from Bob Archie, who was the director of the Employment Security Department—he was an African-American from Las Vegas—and he said, “Well, Pete, I think things look pretty *good* here.”

I think O’Callaghan had maybe wanted to push a résumé for me. We get that thing in, I mean, an official background. And then I get this call from John McGoraty, and he says, “Could you come over? Are you busy right now? Could you come over to see the governor?”

I say, “Well, sure. When?”

He says, “Right now.”

I go over there, and once again O’Callaghan is sitting there alone, and I’m shaking, and he says, “Well, everybody says you’re plenty smart enough, but what about... are you lazy?”

I just got mad, and I said, "Anybody who says I'm lazy doesn't know me, because...." And then I made my own pitch.

He says, "Well, OK," and he looked at his watch, and he says, "Going on thirty-five just seems to me a lot older than thirty-three. I wanted to make sure you're close to your thirty-fourth birthday. So you'll be getting a call from the newspapers. The word went out."

I said, "Well, I want you to know I'll get elected, and I'll do my best to get elected."

He says, "What you do is you do a good job. You do a good job. You don't worry about the election. Just now I got something to do."

And out I went, and that was *it*. That's how that happened. It took us *several* months. And I don't know what he is, boy, but he knew what he wanted to do, O'Callaghan, and maybe he wanted to find out if I was able to take the heat, the pressure, whatever it was. Whatever it was, there was a *long* delay.

Twenty-something years later when Forman retired, Forman made his retirement party speech, and he said, "You're in this speech, Breen. And I know you didn't know, but you better come and give a little speech for me, because you'll want to hear this speech."

I came, and I gave a little speech at the retirement party, and he comes up, and he was giving his speech, and he says, "I applied, and I got Woodburn and Wedge and all these Democrats and all these people to go ask O'Callaghan for this job in this newly-created Department Seven, but Governor O'Callaghan said, 'No, I really thank you very much. You'd be a real good judge, but there's this young Peter Breen that'"—this was back in March—"that I'm interested in, and I'm really considering. I wish you'd keep it confidential." Foreman said this in his speech, so that's how twenty *years* later I realized that, yes, O'Callaghan had decided to appoint me *early* in the spring and for whatever reason

[laughter] was waiting to see how I'd measure up, I guess.

*Now, did you start out in the present courtroom?*

Yes. Oh, *yes*. The commissioners had this when the judges went over there—the new judges—to that section of the courthouse. They gave this to the commissioners. This was the commissioners' chamber, and that was the commissioners' meeting room. They vacated and went over to Ninth Street just about that time when their building got built. This became the new department. Now, just to show you the way it was then, they all had their rooms; Bowen had been in here, he was up there, and nobody said anything to little Petey Breen. This was going to be Department Seven, and I could do what I wanted to do. I mean, I could have had all this space over there, but old Beemer said that he was here then, and maybe you don't need all that space, and we really didn't at the time. But I got to come in and I got whatever I *wanted*.

I thought, "Well, gee, you know, I'm just glad to be here. Whatever you guys want to give me." And they built the bench. They built everything. And we used the outline that was on the floor, because they stripped the floor down to the bare concrete floor. We built along those lines, and the carpenters built what I wanted. This was in November. We had to get it ready by January. So I got *new* furniture. I didn't get Stowe Davis furniture that everybody else had. Some days I wish I had the other. I got my own Sears set-up. It looked kind of nice. It was Mediterranean. *All* the judges over the course of the next few months quietly came down and said, "If you want to trade, Peter, I'll be happy to trade with you," but they never pressured me.

I said, "Well, I think I'll stay here." That was a good decision.

I hired Emile Gezelen's secretary, Martha Kuhles. I just wanted her because of Emile. And then Josephine came and asked me later on, but I had already decided to hire Martha. So I had an experienced secretary.

O'Callaghan called me up and said, "Pete, I'm sending over..." or "Judge." No, by then maybe he called me Pete. "I'm sending over a guy named Dave Dean, no pressure, just to interview with you. I want you to know you don't have to hire him as your law clerk. He comes from Golden Gate University, and you know something, Pete, we don't have any black lawyers in Reno. We might think about..." He didn't say, "We need." He says, "We ought to think about some black lawyers in Reno."

This guy came over. He was Dave Dean. He was thirty-eight years old, and he'd been through the ghettos of Houston and worked his way as a piano player. I mean, he'd made it on his own. He was just that experienced guy that I needed. Had a lot of life's experience with welfare. Gosh, I had my own life-experienced people—as a secretary and a law clerk—when I started. I was really *very* lucky.

*Were you nervous the first trial?*

Oh, yes. I remember my first trial. Oh, we didn't start down here. They were still working on it. It was up in Barrett's court, and so Barrett was sitting there working. Barrett had quite a reputation for talking your leg off. The lawyers would say, "I got to go over to have Judge Barrett sign an order. I'll see you in two days."

But he was very quiet. Fred Pinkerton was the defense attorney. It was a criminal case, I guess. It had to be a criminal case. Maybe it was a civil case. I've forgotten now, darn it. And I forget who else was the lawyer, but Fred was saying, "Well, this will be a reversible error if you don't give this instruction." And Barrett sat there quietly doing his work. We were on

the couch. I got through my jury instructions, and, boy, I was consoled by that bench book that I think Barrett had given me—the judges had put together this bench book, *How to be a Judge*. And then I had my dad's little list that Harry Reid *always* talks about. Whenever he sees me he talks about that list—that little thing on yellow paper. Anyway, I struggled through it and made my decisions, and I said, "Well, how do you think I did on the jury instructions?"

Barrett said—Buzz was his nickname, Buzz Barrett—"Well, I think you did all right. I could see old Pinkerton kind of push you around there. I'm glad you didn't take it from him, you know." He says, "This isn't exactly the most complicated case that ever came down the pike. And you handled it OK."

I don't know if I remember the details, except it was either a criminal case or a personal injury case, because Fred Pinkerton was a prosecutor, or I think he was in a personal injury defense firm. That was my first case. It was up in Barrett's department and it was a jury trial, and I *survived* it. He was a *good*, good lawyer. I don't remember the other lawyer, but Pinkerton was a really good lawyer.

*Is there any awkwardness when you, as a brand new judge, face other attorneys who are former colleagues or adversaries?*

I didn't notice it at the beginning. People came in and gave me advice. One of the great legacies of my father, besides what he taught me, well, it didn't have so much to do with the practice of law, but the practice of life and people like Ernest Brown. But they'd come over and talk to me—drop in—like Richard Blakey of Woodburn, Forman, Blakey, and Wedge. He came over, I remember, during the first week or two, and he says, "I just came in and wanted to welcome you to the bench,

Judge. I think you're going to do all right. And I don't have any advice to give you, but just in my experience, the lawyers want a judge who's decisive, and they want the judge who will be fair. Your decisions will be—most of them—will be right. I would only just say in my experience I wanted the judge to decide and to be as fair as you can in your heart." And they would come over. Several of them dropped by and would tell me this.

I think Blakey made some joke about, "The best judge—the judge may have been often in error, but never in doubt."

And I learned that early. Of course, I had the experience of living with my father, so I kind of knew what I wanted. I guess I sensed from the beginning what I wanted to do.

One of the *best* compliments I ever received was, old Bud Bergin came over about a year or nine months later and says, "Well, I'll tell you, there are a lot of people who wondered how you were going to do." Because Bud was over in the Triune Building when I was there, and he was with Judge Rice. He says, "I just want you to know some people don't get this—I'm not going to say whether or not I was one of them—but you proved a lot of them wrong." It was that, plus I think the *judges* gave me cases to do besides my own. I mean, they made sure, "You take the criminal appeals," which we had Thursdays and Fridays. We had Dean over appeals for two days a week. I was always trying cases. They would ask me to do cases—trials—every Monday. I went to the Judicial College, but in the first year I think I tried something like forty jury trials by the end of the year—maybe not that many, but it was in the thirties, I know.

I was inexperienced, so these other judges gave me the experience. I know they weren't trying to get rid of their work. They were giving me... I mean, Bowen was a friend of my mother; so was Craven. I had an advantage. Yes.

*Now, as a judge, what kind of preparation do you have to do for a trial?*

You mean generally speaking? You have to read the file. You have to know what the issues are. Nowadays, of course, we have pre-trial conferences, but in those days that was not *de rigueur*. They noticed after the day they did try the pre-trial conferences in the early 1960s or middle 1960s, that they had a bad experience with it, so they quit doing it. You have to be familiar with your file, and everybody can be there with the issues—that all comes from pre-trial statements today. You just have to keep up on the general law, your own supreme court decisions; you have to know the direction in which the law is going.

*Do you find that you would come in with sort of a feel of how you thought the case ought to go?*

No, but you *know* whether the law is settled in a particular area. Is this a case of first impression or early impression in your state? And there are a lot of them in Nevada, so you have some choices if you have studied the law of the area. And you have accumulated experience. You know whether something's going to be null. You know whether or not you're going to have a difficult legal issue, difficult for you to understand. You should know that by the time the trial starts. What I'm saying is, you might not know which way the case needs to go, but you'll know where the law should take you, and you'll know the factual patterns. They're generally predictable fact patterns, so you'll know what to look for when you go in there. You might not know which way it's going to go.

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## LEGAL AND JUDICIAL PHILOSOPHY

*Do you have a judicial philosophy? Do you find yourself feeling that what is fair in your gut is not always in perfect line with the law itself?*

Oh, yes! I bring to mind two experiences. One was Louis Wiener, who gave me advice. You've heard of him? He came up and tried a case early on in my career, and he said this, "Judge, I know who you are, and I've known you, and I don't want to step on your toes, but here's just something of my experience. You'll hear our case, and you'll hear the lawyers argue. When they're done, you won't know that case any better than you do right then. And if you can, you should decide it right then. You may not be able to put into words why you decide the way you do, but you'll sense it. You may not be able to say according to this provision of law and this amount of evidence I'm persuaded as to this, but you'll sense what it is. You should decide it right then. You were appointed, and you got on this bench probably more because you're a fair person than because of your knowledge of the law, that you would give people a

fair shake, rather than how smart you are. I don't mean that offensively, Judge, but that's probably the reason. That's what I want in a trial judge, a judge who will listen to me and listen to my case and give me his best sense. So you're there more for that than anything else as a trial judge. The lawyer should be able to help you with the technicalities of the rules of law that apply to the facts, and you have them draw up your findings." He says, "That's what I would do in most cases if I were you."

The philosophy always comes down to this. I say this, well, a little bit as a joke, I suppose. You want a biased judge in your favor, but barring that, knowing you don't know whether the judge will be biased in your favor, you want a judge who will be open-minded and will be prepared and will give you the best judgment they can give you. So that is my philosophy.

It's not just a sense of right or wrong, I guess; it's trusting to your accumulated experience and knowledge. You give your quickest decision you can.

The other thing was as I remember old Judge Sirica. Remember, at the water? My *only* experience with watching him, he said, “Well, I’ll tell you what I would do. I just give my best decision. I let the appellate courts worry about it.”

I don’t know if we set the law or just what, but later on I learned of Leroy Arrascada’s wife’s father, who was the chief of police of Washington, D.C., and he knew Judge Sirica as a lawyer. He was a practical, no-nonsense guy who had worked his way through school, and he maybe didn’t have the genius of some of the other judges there, but he had a real good sense of what’s right and wrong. In most cases, that will carry you through to the right decision.

*Have you ever felt your ability to make the right decision was ever impeded by the law itself?*

Oh, yes! I will not ignore the law as I see it to be, but if there’s any question about the clarity of the law, I am not afraid to make the decision that I think is a correct one, and I’m *very* willing to make a decision that *I* think is what the law should be. If there’s a question about the status of the law being unsettled, let the supreme court decide it. The first dean of the Judicial College here—what the heck is his name? I’ve forgotten his name. On television he said, “A lot of times the purpose of the trial judge is to make a decision and apply the law and what he thinks the law is or should be, and maybe that in another jurisdiction than over here and let the supreme court reverse it. Don’t be afraid to be reversed if you’re a trial judge, because that’s the way the law *evolves*.” And I’m not afraid to do that either.

As a matter of fact, in the first *Middleton* decision there was a question of proving the *corpus delicti*. I decided they were granted a writ of *habeas corpus* in favor of *Midland*,

because I thought the supreme court was unclear on this previous decision; they were deciding an issue of probable cause or of *corpus delicti*, and the supreme court reversed it.

I’m glad they did, because they clarified a cloudy issue with whether or not there was proof of *corpus delicti*, or whether or not the question of probable *cause* was the proper issue. And they clarified that in relation to an earlier case. Of course, granting a writ of *habeas corpus* on a double murder case, you know, is not to the faint of heart. But I did it, and I’m really glad I did, and the issue was appealed, and the supreme court made the decision and told us what to do, and away we went. Before, you went through a jury trial.

*Let me ask you this—do you have any kind of a judicial philosophy, and has that changed over the years?*

Boy, that’s probably the most difficult question for any judge to answer. I see myself as a liberal person, if that means anything. Strangely enough, other people see me as conservative in the criminal law. I would say yes, and probably all judges see themselves this way. I see myself as a person who is objective, but who is also able to understand the failures, the difficulties that people can get into in running their lives. I guess I’d say I’m fair-tempered with mercy. I don’t know if that really means anything particularly, but I do think I’m a pretty objective person.

When I came to the bench, I had ten years experience. I never really agonized over my decisions. I more or less sensed what I wanted to do by the end of the case and was able to make the decision and move on to the next case. There have only been a half a dozen cases in thirty years that I have second-guessed myself about. There just hasn’t been that many.

*Can you speak of those cases?*

There was one case—I think his name was Fusario, and I put him in prison. The argument at sentencing was, “Judge, don’t put this guy in prison. He’s a snitch. He’ll be killed.” It was only a drug possession case, even though people were going to prison a heck of a lot more often in those days. I paid no heed to the statement. And he *was* killed in three weeks, and I... it was a shame. It gave me pause to make sure I’m listening to what people say, and that when somebody’s making an argument, make sure you just don’t dismiss some outrageous claim like that, that a defense attorney would naturally make. They had obviously a good basis for it.

Then also early on in my career I was hearing a fight between two car-painting contractors. I’m going to write my philosophy by inches, I guess, here. Through the trial, the evidence was showing that this one guy should win, and I found myself not liking him and wanting him to lose. I was the guy who was going to decide it. This is in the privacy, of course, of my chambers. And I didn’t ask myself particularly, “What’s wrong with you, Breen? What are you doing wrong? What’s going on here?” But in the middle of the afternoon it just dawned on me that one of the parties was a loud, boisterous man, and I realized that I had a bias against boisterous people—people who talked loud and bluntly and, you know, even bordered on obnoxious. And right then I... I’m glad that that happened to me. It made me approach every case for awhile—and after awhile you do it naturally—noticing that just because I’m a judge I’m vulnerable to biases, too, and to be careful of the little things that may cause me to slant or affect my decisions in some way.

Also, in regards to writing any philosophy, I was very fortunate in being named Peter

Breen, because friends of my father, other judges, other lawyers, knowing that I was a young kid, came to talk to me. Dick Blakey, a great mover and shaker of the Woodburn firm, came over and sat down and said, “Judge, I know I’ve met you, but I just wanted to talk to you a minute. I’m not trying to give you advice, but here’s some of *my* ideas of what I’ve seen over the years.” Louie Wiener from Las Vegas made a special trip up here and just came in and talked for a few minutes and suggested that I decide my cases... you know, being fair is kind of expected and given. Being willing to work reasonably hard is supposed to be a given in a judge—objectivity and industry. The other thing that people want is a reasonably quick decision, and you’re best able to do that right at the end of a case nearly every time.

Then, of course, I had Judge Bowen, who was a good friend of my mother’s, and maybe the smartest judge for just intuition and intelligence I knew. *He* gave me a few ideas. All these *experienced*, respected men, plus having lived with my father, more or less, really helped me establish whatever it was that is my philosophy, which is, hopefully, being a fair, impartial, reasonably industrious person.

*Have you ever found yourself at odds with a jury, with their decision?*

*Oh*, yes, I have. Not very often, though. I had an advisory jury in an equitable proceeding involving some covenants, conditions, and restrictions in a big subdivision here. I didn’t have to have a jury. I was more or less talked into it. It involved interpretation of some real property covenants. The jury advised me one way, and I went the other way. That’s a recent difference within the last two years. I *believe* it was a giant neighborhood dispute between affluent people—and they can fight just as

much as anybody else—about their homes. I believe the jury did not adhere to the clear meaning of the covenants.

I have set aside some criminal cases. About ten years ago a guy was convicted of lewdness with a minor, and it was a jury trial. As the verdict was handed down by the jury, and the case was set for sentencing, I was troubled over that case. I went and ordered a transcript; I reviewed it; and I just came to the conclusion, or decided, that the jury came to the wrong conclusion, that they were influenced by the passions that are a part of any sexual assault case, especially on a minor. There's a statute whereby the judge can set a criminal verdict aside, as well.

Those are two. I've had a smattering of them, but mostly no, I believe.

*Have you had cases that have set precedent?*

Yes, there is a divorce case. This was where I wrote it for the supreme court—that's one reason why I remember. Anyway, a person gets married. A man gets married to a woman and puts property in joint tenancy as a gesture of love and commitment, I guess. Then the marriage lasts for about two years, and they split up, and he says, "Well, I really didn't *mean* you to have half of that," this common thing. But the law is clear that if they get this made into a joint tenancy or into a joint ownership in a marriage, it's presumed to be valid. You're gifting it to your spouse, and you can only be overcome by clear and convincing evidence, which is *not* your testimony that it had a secret intent, that if you left me I wanted it back. You know, it's like all parental gifts to their children at marriage have some implied condition on them. [laughter] Anyway, I wrote that the rule requires clear and convincing evidence to overcome this gift, and this is not sufficient, which was the

spoken testimony of the husband in this case. About three years later a couple of lawyers told me that this was a real precedent-setting case, and being young and impressionable, I remember that one.

Then there's the criminal cases. The *Petrocelli* case was a well-known case for twenty years on the admissibility of *other bad acts*, other crimes or wrongs in a criminal case, and a procedure was established for it that I used in that trial. It was approved by the supreme court, and then it became the *Petrocelli* hearing that you had to have in all the criminal cases. That was pretty significant. It seemed like most of the cases were criminal cases.

Recently, in the *Middleton* case I granted *habeas corpus*, no mean task for a double murderer, a man who's been convicted of double murder, because the supreme court had to find the requirements of a *corpus delicti* in such a way that... well, the wording in one of their previous decisions to *Middleton*—and I forget the name of that case—left it, made it real difficult to conclude that our *corpus delicti* had been proven when a body had deteriorated. I got reversed on that, but it was precedent setting. I figured I was going to get reversed, but the law was unclear. I granted the petition early so that the lawyers didn't have to go through several years of trial preparation, trial, and then litigation.

That's an aspect I would think is important of any trial judge's philosophy—to be *willing* to be wrong. And I *am*. I will make a decision that has a really good chance of being reversed if it looks to me like it maybe needs to be taken up on appeal. I've done that several times.

*You mentioned the passions incited by certain types of cases. How do you feel with the public pressure or the public outcry in some of these cases?*

It would be a poor judge indeed, and it would be a terrible life, if you tried your cases day by day with an ear cocked towards listening to see what the public wanted or what would be popular.

I felt the sting of rebuke, well, I'll tell you, a few times [laughter]—public rebuke—for deciding cases the way I thought they should be decided under the law, like years ago having declared the death penalty unconstitutional in Nevada. You know, it was happening all over the country. It was just our state that had to be next. But you *must* do that. You must follow your own conscience, your own judgment as to what is right or wrong, or whether it's the law, rather than pay heed to what is popular.

For example, the case is over with now, but this, oh, geez, was a case involving the City of Reno, the County of Washoe, and the landholders out there towards Verdi.

*Oh, the Verdi annexation.*

Yes, the Verdi annexation case. I know that case is over now, but the statute clearly said that the landowners can join together and petition for annexation at that time. Maybe they've changed the law now with the legislature. But what *happened* was is *these* landowners—three or four of them—happened to own all these *thousands* of acres that were in Washoe's sphere of influence and jointly petitioned for annexation, and there wasn't anything that the County of Washoe could really do about it.

I said I was a liberal. I mean, I'm like the next person. When I come into Reno from Verdi, I'd rather look out across pastoral landscapes with a cow or two here, or think that I could wander there on trails in forested areas if I wanted to. That's my personal desire, but the developers were planning on subdivision and development out there. You

felt the pressure from the public—just the *sense* of the disappointment that when you've decided this case and allowed the landowners to annex, that you were destroying the last few acres of open grass that they really had here in Reno. That was a small example recently, but it comes across here—can come any time.

I have granted probation to people who have killed people, not in drunk driving cases, but... I *did* in one drunk driving case. I felt the pain of the mother and of the victim before it, and there wasn't a public outcry about it with me, like there was with Gabrielli when he gave that term of probation in drunk driving cases. I felt it through my career, and I believe that I have not *yielded* to those things. I hope I haven't.

*Is there any one case that you can look back and identify as perhaps your most difficult case?*

Everything is contextual, and I do remember this case when I was a young judge. It was a criminal case. It was Nevada v. Crockett. Will Crockett was accused of murdering his fifteen-year-old stepdaughter, and he was accused of having a romantic, sexual relationship with her. The state's position was that they went off in the hills up here in Lemmon Valley, and then he murdered her with a Marlin .22 lever-action rifle. It was a difficult case, because the coroner did not get out to the body—it was July the fourth—until noon of that day, and there was some question of decomposition. But Mills Lane was the prosecutor, and I forget who was defense counsel, but it could have been Cam Robinson and Jerry Polaha. They stipulated to dismiss the case after the preliminary hearing. It could have been a grand jury indictment.

I sat right here in this spot on my couch on a Saturday and read through that case and read through that case and read through that

case. And I decided that the prosecutor was wrong—the D.A.’s office was wrong—and that this case ought to go to trial. Forcing a district attorney to go to trial in a murder case that is not heavy on the evidence is not something that’s usually done, but I did it. I think that was a moment that I felt people were looking at me in such a way—this couldn’t be and wasn’t true—that, “Who is this idiot? Who does he think he is? He’s not an experienced criminal trial lawyer, and here he is ordering the prosecutor to go ahead with the trial.” It went to trial, and Crockett was convicted of murder. Eventually, it was reversed on appeal because of the failure to preserve evidence, going back to that night in July—the warm evening and the warm morning. Looking back, I guess you’d say, I’m proud of myself for sticking with my certain convictions, even though I’m sure I looked to the bar association and law enforcement like somebody who came out of Alice in Wonderland with some decision. I do remember that one. And these aren’t really necessarily... people have forgotten them now. But life is contextual, and at the time it was a big matter, and it was important to me.

*What do you think makes a good judge?*

You *absolutely* have to be aware that you have biases and make yourself unbiased. We’re all subject to that: personal biases, situational biases, biases for popularity, the need to seek and receive approval. You absolutely have to have that.

You have to have a *reasonable* amount of industry; you must be considerate; you must acquire some patience; you *must* be able to get to the central issues of things. Some people have it intuitively, like Judge Bowen, and some people have to work at it and reason to it.

*Do you have any role models?*

There was Bowen, of course. Old Judge Bowen—I think I mentioned him maybe last time—was a friend of my mother’s. I think he might have been the brightest judge that I knew. He could *quickly* grasp things. Even though he was at the end of his career when I knew him, I would take matters up that I’d researched just to try to catch him in an error. I’d ask him about complicated points, and he’d stand there and say, “Well now, that’s what I would do on that.” And he’d invariably be right in an instant, whereas it took me hours to find out the right answer on these things. I was testing him. Not only was he very bright, he had an attitude, a mind set about the way a lawyer and a judge should look when they came to work, how they should dress, how they should approach their life’s work.

Judge Beemer—an old retired J.P.—was my neighbor here, and we became, *oh*, so close after I went on the bench. He was born and raised here, and he was a *strong* man, both with fortitude and, in watching him, he reminded me of the need to be strong. These principles that really don’t necessarily have anything to do with the judiciary, just living, you know, to be direct, be productive, let’s say. Some of the other lawyers I mentioned, Blakey. My former father-in-law, Emerson Wilson, was very good for me—a very conservative man, but he was also very decisive.

*You mentioned at one point Ernest Brown and how he was able to essentially foil a blackmail attempt.*

Oh, Ernest S. Brown. It was a most pleasant year and a half I had, I think, since I started, and it came right at the beginning.

But the one example I want to tell you about happened regularly in his office. Not

every week, but unusual things happened. It was seven o'clock on a Saturday morning, and I got this phone call. It sounded like a whisper when he was trying to talk personally, "Peter, could you come down to the office *right away*, and we'll have some fun?"

I got dressed, and I went down to the office. We went into the library, and he told me the facts, and the facts were this: that a man had come to Reno, he had gotten terribly drunk, and he had married a woman here. He met her in the Riverside, I think, and he married her that night. And he was married to somebody else. He had a wife and family somewhere in California.

When he woke up in the morning, a private investigator had come to his hotel room and told him that they were going to expose him as a bigamist, and that he could get an annulment if he paid the investigator probably a couple of thousand dollars. I know it was in the thousands. So Brown put me behind the door, and he *asked* this investigator just *what* he wanted. The guy came out with a story that he wanted a few thousand dollars, and he would get an annulment agreement. And so then Ernest, who was a very thin man, [laughter] said, "Now, let me tell you something, you." And he was able to use a few curse words, too, "You S.O.B., you're extorting my client, and if you don't have an appearance and waiver on my desk by such and such a time, or if this doesn't happen...." I was so young I don't remember the details. "I will see that your license is taken away, and I will make sure that this person you're representing is charged with felonies," and so forth. And he explained that his client was so intoxicated he couldn't form an intent, and, in fact, that he was still intoxicated, and he had evidence of that. So, a few minutes later, over came the appearance and waiver. Brown had once again saved the day and championed

justice and showed something to his little charge—educating his young lawyer friend further in the ways of life and the law.

There were many times when things happened where Ernest came and saved me or did something in a dramatic way.

*Do you think that a good lawyer automatically becomes a good judge, or do you think they need different types of strengths?*

No, I don't think automatically. A good trial lawyer does not automatically become a good judge. It takes a rare breed. It is a rare breed. Good trial lawyers are *intense*; they are *aggressive*; they are determined. They have boundless energy as well as keen intelligence, but they're very competitive, and I think it's hard for them to jump into the rather different posture of the judiciary. I'm not saying they can't, but I guess I'm saying it's not in their nature, and they probably wouldn't be content. A person acts more or less according to their nature, you know, and that's probably not a good spot for, let's say, an aggressive, intense, personal-injury trial lawyer.

And yet, you've got to enjoy the exchange that goes on in a trial court. There are some similar aspects: you've got to be able to think on your feet—grasp things quickly—to be a good trial judge, as you also have to do to be a good trial lawyer. A good lawyer does not necessarily make a good judge, no.

*Now, in the last couple months, Judge McGee talked about how difficult it was for him to leave the emotional content, particularly of juvenile cases, at work. Do you think judges are perhaps more susceptible to emotional burnout than perhaps people in other careers?*

Maybe. I guess it hasn't happened to me—my thirtieth year here—but, you know, Chuck

is in a particularly narrow area of family law, and I would say that they're more susceptible to burnout there. You could be much more susceptible to it there in the family court, given the emotions and given the fact that so many of their issues are insoluble, either because of the emotional make-up of the family, the history, the lack of money, or enough money to spread it, you know, to divide it up. If the judge agonizes over a decision, then he is truly going to have a difficult life. I guess I'm saying the family court is a special area.

*Do you ever find yourself getting a little cynical maybe about human behavior or human nature?*

You know, I have not. I have looked at it as gaining more understanding. I've had many opportunities in the last nine years to become cynical because of the specialty courts that I've conducted, and I have seen humanity and the frailties of the human being maybe at its worst. But for some reason, I don't wind up looking at it that way, and never really have.

I have had what I would consider the most *brutal*, ruthless murderers in the courtroom. *Part* of my philosophy is they're entitled to human dignity in there as much as anyone else is. We're in the courtroom to apply the law to the human being and in the context of the factual situation. They—the defendant *and* the plaintiff—are entitled to be there, entitled to be treated with respect and dignity.

*How much of an impact, say, on your family or your social life, does holding the position of judge have?*

For me, it definitely changed the way I looked at my social life, and also the way the lawyers and parties treated me, as well. Of course, you've always got the person—you're

at a party of fifty people—who's going to come up and say, "Hey, Judge, I got a question for you." But most people tend to put a little distance between you and them. Some of my friends who were lawyers—we distanced ourselves from each other right there in the first few years. And it seems like towards the end, the last few years, maybe they slowed down and were less likely to have contact with me. We've become closer to each other. I think the public had seemed to sense that in some way there is a little gentle barrier between you and them. I guess you're a little more alone than you would be otherwise.

*What would you describe as the most significant change in the judiciary itself since you were first appointed?*

That is an easy one. There are really, maybe, two. The most significant change in the judiciary is the rise in the proliferation of the use of alternate dispute mechanisms. When I went on the bench in 1974, it was unheard of. A judge would *never* be involved in helping the parties resolve a dispute in the quote "settlement conference" or acting as a mediator. The words weren't in their vocabularies on the dynamics of that kind of a thing. They would be *unable* to do it, generally speaking. As years went by, I learned that there were some. That has been the most profound change in my view, brought about by, I guess, the increased cost of litigation. That has been the biggest one.

Along with that I would say the big change is the increased cost of litigation. In 1974, like I think I said, I tried a *lot* of cases that first year. For the first several years, trying cases was easy. It wasn't too expensive, and it wasn't such a... I don't want to use the word "production," but I can't think of a better one. It's more the *preparation* for trial. They're

more complex now. There's much more discovery. I think the litigation that we have now is perhaps more complex.

Those are two, and then the third one I'll mention in a minute because it's completely separate. These things have really changed the face of the judiciary *now*.

One of the things you're admired for is your ability to *settle* the cases, rather than to try them. Coming from the old school, I guess, I have not warmed to that very well. I'm learning. I'm trying to learn how to do it, because the lawyers and the people want it, and I don't do it in my own cases. But I think I've been slow to take to it. I have learned that in other cultures and other societies it's been *quite* popular. I didn't realize that until about the last two or three years.

The other *big*, major thing involves any specialty courts that I'm involved in. This is a *major* shift in attitude of the judiciary in the criminal field—*major*.

*Now, you instituted quite a few of those.*

Yes. The first drug court and specialty court started in Miami, Florida. Jack Lehman, who is a judge in Las Vegas, started in the fourth one. We got into this area really quick up here, and it was somewhat surprising for such a very conservative town—criminally. This local community—the law enforcement, the district attorneys, the government, the county commissioners—have financed us and supported us from the beginning. It was easy to set up the specialty courts, and now we have about as many types as there are: the adult family court, the juvenile court. We have two different kinds of adult drug courts. We have a mental health court you go in for two years, and I preside over all the adult specialty courts.

Basically, instead of being reactive, the judge becomes proactive. The standard

criminal case comes before the court; the parties argue what should be done; the judge makes a decision and *never* sees the defendant again. If they're sent to prison, of course, they don't, but if they're put on probation, they're never seen again unless they get into trouble. The specialty courts put the judge right into the mix of the solution and monitor the defendants—mostly people who are drug addicts, also, alcohol abusers, though, and people with other problems, too. The court monitors it from beginning to end: monitors the care provider, the police, the defendants themselves, the other players in the system. It's been said to be the most significant change in the American judiciary in the last fifty years or more. It is very satisfying to me. A person no longer is a number, but becomes a person who's success you're directly involved in.

*Have you had pretty good successes?*

Yes, we have. We have been right in there with the national average, and this is statistics according to the U.S. Department of Justice. You have an 80 percent chance of re-offending if you're once charged with a crime involving drugs, or really anything else. And if you go through one of these specialty courts, you have an 80 percent chance of *never* being charged with another crime. The statistics are reversed, a great savings to the government and great savings to the wear and tear on the human spirit.

*What do you think brings this out? What do you think is the most crucial element in bringing about the reversal of those statistics?*

It's the accountability—the accountability to the judge. Everyone has to account for what they recommend, for their work—the probation officer, the counselor, the

prosecutor, the defense counsel—but most of all, the *defendant*.

Basically, the parties all come in, and the judge says, “All right, *what* have you done?” And if you use drugs, then, you know, there’ll be a consequence. “What are you going to do to *improve* yourself?” It is accountability.

Then in a very real sense many of the defendants have been, maybe through their own failings, disenfranchised and feel outside of society, and here you have one of the most powerful branches of the government right in the middle of their life. They believe they’re pulled back into society. So that’s part of the reason why they do have better success, I think.

We also deal with people who are in prison and people out of prison early. We use it in all aspects of the criminal law. The mentally ill who are competent, but also have such a difficulty with their mental illness that they chronically repeat their crimes—they are responding to this therapeutic justice, as it is called, *very* well. And it’s surprising then to me how well they have responded. These are the people you see out on the street who are dirty, whom you probably are frightened of, although for the most part they’re harmless. This type of justice really works well with them. It’s not *easy*, but it does work well.

*The initial impression would be that these specialty courts might be a very efficient way of dealing with things, but it seems like it creates a tremendous workload in reality.*

It does, and it’s very intense. I do it Wednesday and Thursday, and, oh, it takes me until Saturday to feel rested up. But the rewards are so great. The judges in this district—and I say most others where they have these specialty courts, too—have been very generous with me. They took away my criminal calendar. When I started the

specialty courts I kept a full civil and criminal calendar, oh, partly because I wanted the courts to continue, and I didn’t want people to think, well, I’m taking away from the business of the good citizens of the community and not carrying my share of the load. Then after a few years it *did* get to be enormous. I mean, we had a meeting, and the judges more or less ganged up on me and said, “Look, we’re trying to help you. We’re not trying to hurt you. We’re going to take your regular criminal calendar, so you’ll have some time to do this.”

It is a tremendous amount of more work, but the judiciary has really responded to help *me*.

*How much of your workload would you say then is actual legal, and how much of it has shifted to administrative?*

I like to think it’s 25 percent/75 percent. And if I say administrative, let’s include the specialty courts in there. But there is administration just managing personnel, the care providers, the support of the employees of the court, and I would say that’s maybe 10 percent. I really don’t know. The actual *time* of the specialty court *in* court is two and a quarter—because we have a night court—of the work week, meaning two days, plus the night session. But then there’s administration to it, too. While we were talking here you’ve seen somebody come in who works for the specialty courts and asked me a question, and the defendants—we like to call them clients—come try to talk to the judge. Let’s say, another half a day. So I’m up to two and half days—about half time.

*Half time on administrative things.*

I mean, half time if you count the specialty courts for this area.

*Have you seen the types of cases change, from the time you first came to the bench till today?*

Oh, yes, I think the litigation has become more complex. The cases—let's say they're bigger. They involve more money, more damage claimed. By more money I mean larger claims for damages and relationships of people. By that I mean the people who are involved in the litigation—there's more aspects to it, so there are more parties.

We've gotten more knowledgeable in our sciences, so scientific evidence plays a bigger role, and it has its pluses and minuses too. Hard to separate the good science from the junk science, as it were.

*I suppose that means you have to kind of keep up on all the new developments.*

Yes, that's true. Fortunately, you can always go back to the basic principles that help guide you. What is fair, and what is reasonable? Is this logical? They're very simply stated, and they can at least help you keep centered on where you should be going in your personal quest for the right solution—right decision.

*Do you think we've become a more litigious society than we once were?*

Oh, I think we've always been, in my memory, litigious, even if we only watched in earlier days the operations of the court. But perhaps we have. I don't necessarily see that as bad. Better we litigate in an arena where the sole purpose is to find out what is the truth, and do we have a law that applies to it, and guided by our constitutional principles more than in any other way. I know the American system. I am not a student of even our own system, but I know it's more open and subject

to claims than many other systems in, let's say, the democratic countries. I don't see that as necessarily bad, either. I think the way we are is that we have a system where there is nearly unlimited access to reform to have your perceived wrongs redressed. That's much better than any other system that I know of.

*Do you feel that you see a lot of frivolous filings, or not too many?*

Oh, yes, there are frivolous filings. Maybe there's more than one level of frivolous. Let's say, for example, you have a lawyer who's not that capable, maybe not that industrious, and, well, he files a lawsuit. Many times it could be considered a frivolous lawsuit, and certainly, let's say, somebody like Kent Robison would never consider filing this lawsuit, but John Jones did. I think a judge's definition of what is frivolous must be tempered by a willingness to give the people reasonable access to the courts and a reasonable opportunity to have their wrong redressed. What I guess I'm saying is, my definition of "frivolous" is a more narrow one.

*Do you think juries have changed much since you were first appointed?*

Yes. First of all, I think people are more willing to serve on juries than they were in 1974, let's say, and I think juries are more sophisticated, perhaps. Right now our supreme court is developing some guidelines and rules for jury involvement—jury selection—allowing the juries to participate, trying to find a way to allow juries to participate more fully in the trial as it goes, which has good and bad elements to it. But that's probably in part a response to the public's desire to be more involved—people who become jurors.

*Have juries been able to keep up with this amazing explosion in forensic technology, or has that kind of outrun their ability to understand?*

If you believe in the jury system, the collective wisdom of twelve or eight people, being at least as good as the one judge or three-panel judiciary, then I think you have to say, well, they certainly have the same capabilities as any one or two or three educated people. By and large I believe that's true. I *do*.

*So you feel you can trust your juries?*

Yes. I am a firm believer in common sense and the reasonableness of the average human mind.

*Are there any unofficial rules of the game in courtrooms?*

I can't think of one. Here I suppose people should be guided by a sense of maybe natural law of human decency. [laughter] Don't be late. Be courteous. Be aware that one of the greatest frailties of a human being is the inability to really communicate with somebody else.

The great thing about a trial lawyer is that they know what is needed at the moment, and they're able to communicate with the jury or a judge. Most of us have difficulty doing that. I like to say I don't know of any unofficial rules.

*OK. Now, how do you think that the caseload in your district compares with the caseload in other federal districts?*

I think, oh, our caseload is medium—reasonable at this time. And during my time here, we've been too busy, but at this time I think we're balanced. We're in a pretty good situation. We're moving higher. I don't think

we would reach the point of a critical shortage here for a few more years—three or four more years.

*Do you want to, or are you able to, comment on any of the recent decisions coming out of the Ninth Circuit Court of Appeals? We've had quite a few in the last couple of months that have stirred some controversy.*

My wife reminded me yesterday that the federal Ninth Circuit has a very high reversal rate. Obviously, the Ninth Circuit has a very different view of the manner in which a death penalty should be imposed than the Fifth Circuit does. And it's a *large* circuit. While on an individual case I have disagreed with the decisions they have arrived at, they are as capable, as hardworking, and as part of the American sense as any other. I can say they're probably too liberal, but that's only my opinion. I believe they're a worthwhile, valid part of our system, you know, in a general sense.

*Now, some people have suggested that perhaps the Ninth Circuit itself is too large and too geographically diverse, for example, Hawaii and Nevada in the same district.*

It's pretty big, and it is diverse, but I don't think that is a reason for changing the district in and of itself. I don't know how comparable the population is to other districts. Do you? I really don't.

*Off the top of my head, no. I just know we have one of the heaviest caseloads.*

Yes. It probably comes about partly because of California being the fifth largest economy in the world. I imagine that could be it right there.

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## LEGACY: INNOVATION AND HISTORIC PRESERVATION

*This is a bit of a shift in gears, but I really do want to talk about your courthouse restoration. That has really been a project that's close to your heart.*

It has, yes. The Washoe County Courthouse has a history that goes back to 1873. It's the government building with the longest period of continuous history. I got in here, and it was a lucky break, because the county commissioners had used it for years when they built the new section of the courthouse. And then I was here for all those years, and I believe I was here when the time became ripe to consider restoration. One of the courthouse employees came to me and said, "Well, Judge, I think we should save these antiques as part of the courthouse's souvenirs." One thing led to another in the discussion, and so it was decided, well, if we were going to have a voice, we should form a historical society, which we did. We found that the people were so receptive to it. We were able to raise money without much effort *much* to the surprise of the supreme court historical society, I might say. They couldn't figure out how we got all this money. But I think people were willing

to be tapped when they saw an organization that was interested in preserving and *using* and enjoying the courthouse. Now, the county already had plans for the dome restoration—the courthouse dome—the definitive work of art in this valley, I would say quite without bias, of course. But after we were formed and started promoting it, *it* was completed. The courthouse has been etched in—I've forgotten the words for it—but all the edges have been pointed and sharpened, and the courthouse has been *cleaned* through a special acid bath process.

We're now involved in a project of restoration of the historical courtroom, and we already have the money to do it. We think we have enough. It has been donated and been pledged by the county, and we have a partnership going with the county. We are on to building for the next project, which is to get a part of the courthouse for a little museum and perhaps a little senior judge office, a little office, and we're well on the road to that. And this is all in four years.

We participate in decorating the courthouse for the Christmas season and for Flag Day.

While the people who attend the ceremonies are not large crowds, the number of people who see the displays for Flag Day and for the holiday season is enormous. I think we've drawn a tremendous amount of attention and pride to the old courthouse and awakened an interest in a lot of fun. I happened to be here and be at the right spot at the right time. And I've gotten myself quoted—the desire by any liberal—twice in the *New York Times* newspaper because of the courthouse.

There was a question about the bridge being destroyed. The reporters came up and asked me about the courthouse, and so personally it's been something that has just been a great satisfaction to me the last few years.

*Aesthetic issues aside, do you think that there's a psychological element, too, that perhaps the force of the law has a little more weight in a courtroom that looks like a traditional courtroom?*

Of course! Now we have a working courtroom. Interestingly, we have the drug courts, these new phenomenons that are occurring right in the old historical courtroom, but the sense of permanence, of solidarity right there for you to see in the historical courtroom that has been preserved and kept up gives the people a great sense of strength, history, continuity, pride—all those things that the laws are supposed to help us do. A sense of permanence.

*Do you think there's ever a time when litigants or defendants feel in some of these courtrooms that almost look like an office—that they feel there's less permanence or less of a weight of the law in those situations?*

Of course, I like to think so, that they come into an old courtroom like this—the only one

in the district where you can look out and see the seasons passing by because we have these beautiful, old, large windows—and they have an immediate sense of not only history, but the proposition that as a society we believe in the rule of law and a sense of a permanence and reverence for the law.

*Do you think, perhaps, there architecturally ought to be a swing back towards courtrooms that look like courtrooms, or do you think the modernization of the courtroom is all right?*

Having performed in a play over in the new federal court office this summer, they're pretty nice. The acoustics and lighting are all very nice. I like to think they are trying to move *back* in their design. Into the newer courtrooms they are trying to take a step back to the way some of these old courtrooms looked. And hopefully, they will move that way with their buildings, too. I know that you can see the taste of the public from 1910, which is the courtroom out here that we see to my left, to the addition over here on Sierra Street, which is a big concrete block with louvers on the side. They were all designed by the same person, our most famous architect and one of our most famous sons, Fred DeLongchamps. He designed every one of them from the beautiful beaux-arts on Virginia Street to the big square concrete block on Sierra Street. He was known for being aware of the tastes and desires of the public.

I think it's us who, I suppose, wanted to save money. I'm not really sure about that. I think now we're perhaps swinging back to being aware that other things are important as well, like they were in 1910.

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## CLOSING REMARKS

*Now, you mentioned you do a bit of acting on the side, don't you?*

I have this year. I haven't done it for several years. It takes a lot of time. But yes, I do. I'll probably do a little more now that I'm back into it. I've been in rehearsal now from February until July of 2003 for these two productions I was in.

*This being Nevada, I can't let you go without asking about a couple of particular cases involving mining. One was, of course, the clash of the Titans there versus Newmont.*

Oh, yes, the case of the *Barrick Goldstrike Company v. Newmont Company*. That case involved the two largest gold mining companies in the world who had to share the same piece of ground up there on the Carlin Trend. They actually *both* had ownership of a gold interest in the same huge open-mining pit, and every day they would go out with their transits and their laser sights and mark off who owned what for the day's digging. They

got in a lawsuit over the disposing of the water that was in the pit. There's a high water table up there on the Carlin Trend, about twenty miles north of Beowawe. They pumped the water out of the mines so they could reach the gold and put the water down into a reservoir, which was right next to some property that was owned by the Newmont Mine—the TS Ranch, a famous old mine up there between Battle Mountain and Carlin.

Barrick was in charge of that operation, and the water started spilling out—not spilling—but leaching out onto Newmont's TS Ranch. Newmont sued Barrick Goldstrike Company for destroying its ranch. The lawsuit involved claims of a hundred and fifty million dollars. It was a *huge* lawsuit. They tried it before me down here a few years ago. Just in retrospect, it was like when you hear the stories that people say about the judiciary today, that it's the sport of kings to sue each other. This was truly a case like that. Sir John Goldsmith from England was the main stockholder in Newmont, and three men from Montreal, Canada, part of the

commonwealth for owners of Barrick, the primary movers of the Barrick Goldstrike. They did things like sneak down to Elko, Nevada, to have conferences, three men from Barrick Goldstrike in their private jets, and Newmont would have an official serving a subpoena on one of them to come to the trial. They would fight about that. And I had, oh, some of the best experts on desert vegetation and wildlife testify. They just brought in the best experts they had to litigate their positions on whether or not there was damage to the TS Ranch, whether or not the toxic waste was going to get into the Humboldt River, or close to the Humboldt River, and endanger the water system downstream. We tried the case for six weeks. Then we had arguments, and I did grant a temporary injunction against Barrick Goldstrike. Then I was going to take a helicopter flight up there to view the properties from the air, and the day I did they settled the case when we were getting ready for trial.

Then they went off to another lawsuit, I think. As it turns out, one of the reasons for the litigation, I think, was that Newmont had another piece of gold property it thought it was going to develop, and it wanted to *use* the TS Ranch for its waste water as well. Toxic water. The reason I said that is that there were factors involved that were way beyond the mind and abilities of a simple little state trial court judge.

*Even one who grew up in Goldfield, right?*

Right, who grew up in a mining town. I'm no stranger to mines and mining litigation, but it was a fascinating case. One of the interesting things about public interest, though, was that it was never reported in the Reno papers. It *was* reported extensively in mining journals

around the country, a blow-by-blow, hour-by-hour type of thing, but the local news media didn't seem to take an interest in it.

*Possibly because of the foreign ownership?*

That's possible, yes. Yes, it is possible.

*How about Santa Fe Gold v. Southern Pacific?*

For that one you've got to go back in history. The railroad was given all this property they call the checkerboard alternate townships as part of the reward for putting the railroad through Nevada. Just as a quick history, there were, oh, a couple of *million* acres. I forget how many million acres that the railroad received. Over the course of years, the railroad separated ownership between surface rights and *mining* rights, underground and aboveground. That was fine as long as the railroad company owned both subsidiaries. But then, as it would happen, the surface rights got sold to *another* company, and the mining rights were retained by the railroad company. Eventually, the railroad company sold the mining rights, as well.

There were many conflicts in the leases between the subsidiaries of the mother company in many issues that weren't important when the railroad company owned 100 percent of the stock of the two corporations—two subsidiary corporations. But it so happened that a company whose home base was in La Jolla, California, bought the surface rights, and then the Santa Fe Gold had the mining right. Then they got into a tremendous lawsuit here, because the owner of the surface rights says, "Well, you owe me money because you've been leasing and mining on my property, and you owe me millions of dollars." And they had a big

lawsuit here that went on for about four weeks between two local lawyers who were very good and two lawyers from Denver, Colorado. The upshot of the jury trial was that the owners of the mining company won their lawsuit, proving that mining is still the king in Nevada, even with the juries. If you have a good strong contractor ownership of the subsurface rights, your rights are usually going to preempt *any* surface rights.

The lesson learned there was that there are people around the country, or all over the world, who know about the Carlin Trend, and these are billionaires. They're trying to strike it rich and buy property in the northern part of Nevada in hopes that another Carlin gold mine or one of these hot strikes will be found, and they will become even more fabulously wealthy.

*Yes. Poor Nevada. The last question: Can you think of or identify anything that you would consider your major contribution to legal history?*

Me? I think having been born Peter Breen and having a father and grandfather, also having Frank Ingram, provided continuity and made things a lot easier for me. I would say being involved in these specialty courts has been at least a medium contribution, because it takes a certain person to be willing to shepherd them through to where they become institutionalized and accepted in the community. And they are homegrown local phenomenons. They will only last if they have local support. I think I've been a fairly decent part of that.

Other than that, the fact that I am soon to be the longest-sitting trial judge in Nevada's history will probably be eclipsed in a few years and noticed by *only* the person who is the

second longest-sitting trial judge in history. [laughter] I have survived my enemies and, I guess, outlasted them more than anything else. And the person who has a few years less will soon pass me.

*Thank you very much.*

Oh, it's been my pleasure.



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## ADDENDUM: CREATION OF THE PROBATE COURT

Provided by Judge Breen June 1, 2004

There is one area, which has not been covered, the creation of the Probate Court in July, 1999. This court was created primarily through the efforts of Ms. Pam Gullihur, the former administrative assistant for Judge Schouweiler. I became the Probate Court Judge. The Probate Court is responsible for all probate and trust matters, including associated litigation. About two billion dollars of assets are administered by the Probate Court on an annual basis. Under my direction, Ms. Gullihur has managed probate cases admirably. Even though she has no formal legal training, the judges unanimously gave her their endorsement. This is a project, which I have been proudly associated with and would like to include in my oral history.